



**WILLIAM T. CHISUM**  
wchisum@kmtg.com

February 2, 2023

**VIA E-MAIL AND U.S. MAIL**

Hon. Russ Perdock, Mayor  
and City Councilmembers  
Clearlake City Council  
City of Clearlake  
14050 Olympic Drive  
Clearlake, CA 95422  
Email: [mswanson@clearlake.ca.us](mailto:mswanson@clearlake.ca.us)

Re: Appeal of Planning Commission Decision  
Approval of the Airport Hotel and 18<sup>th</sup> Avenue Extension Project  
Renewed Request for Continued Consultation

Dear Mayor Perdock and City Councilmembers:

**Summary**

The Koi Nation of Northern California ("Koi Nation"), as a Sovereign Nation hereby renews its request for continued consultation with the City of Clearlake ("City") regarding the City's proposed Airport Hotel and 18<sup>th</sup> Avenue Extension Project ("Project") to the extent any uncertainty exists as to the status of such consultation, which was not properly conducted or concluded. The California Environmental Quality Act, or CEQA, as amended by AB 52 (Gatto, 2014) ("AB 52"), requires lead agencies to engage in consultation with California Native American Tribal Governments as a mandatory and necessary part of its CEQA review and compliance. AB 52 does not envision a single meeting but a process through which the parties develop and agree upon culturally appropriate mitigation measures. The City initially purported to engage in this process upon request by the Koi Nation. Unfortunately, the City went silent and failed to provide requested Project information to the Koi Nation. Nor did the City incorporate the Koi Nation's proposed mitigation measures for tribal monitoring, cultural sensitivity training, and a tribal cultural resources treatment plan, or analyze their feasibility as required by CEQA. Even though the consultation process was never completed due to the City's failure to provide information, its Planning Commission approved the Project's mitigated negative declaration ("MND") which is the subject of this appeal. Such approval without good faith, meaningful consultation violates CEQA. Given this violation, affirming the MND simply invites litigation resulting in Project expense and delay including the potential of having to prepare a full EIR and having to pay the prevailing petitioner's attorneys' fees. The Koi Nation submits

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that the better alternative is for the parties to commit to continue or reinstate consultation to address appropriate mitigation measures prior to any final decision on the pending appeal.<sup>1</sup>

### **CEQA Requires Tribal Consultation Prior To MND Approval**

According to Public Resources Code section 21080.3.1, as enacted through AB 52,

(b) Prior to the release of a negative declaration, mitigated negative declaration, or environmental impact report for a project, the lead agency shall begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project if: (1) the California Native American tribe requested to the lead agency, in writing, to be informed by the lead agency through formal notification of proposed projects in the geographic area that is traditionally and culturally affiliated with the tribe, and (2) the California Native American tribe responds, in writing, within 30 days of receipt of the formal notification, and requests the consultation.

Government Code section 65352.4 provides that:

"consultation" means the meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties' cultural values and, where feasible, seeking agreement. Consultation between government agencies and Native American tribes shall be conducted in a way that is mutually respectful of each party's sovereignty. Consultation shall also recognize the tribes' potential needs for confidentiality with respect to places that have traditional tribal cultural significance.

Similarly, the Technical Advisory to AB 52 and Tribal Cultural Resources in CEQA, prepared by the Governor's Office of Planning and Research, quotes from the Tribal Consultation Guidelines for SB 18, Government Code section 65352.4, explains:

consultation "is a process in which both the tribe and local government invest time and effort into seeking a mutually agreeable resolution for the purpose of preserving or mitigating impacts to a cultural place, where feasible." . . . Effective consultation is an ongoing process, not a single event. The process should focus on identifying issues or concern to tribes pertinent to the cultural place(s) at issue – including cultural values, religious beliefs, traditional practices, and law protecting California Native American cultural sites – and on defining the full range of acceptable ways in which a local government can accommodate tribal concerns.

(Technical Advisory to AB 52, at 6.)

Public Resources Code section 21080.3.2(b) provides that consultation can be concluded when: "(1) The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal

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<sup>1</sup> Please include this letter and attached exhibits as part of the record for the Koi Nation's appeal of the Project approval which the City Council is scheduled to hear on February 2, 2023.



cultural resource" or "(2) A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached."

According to Public Resources Code section 21082.3(d),

. . . the lead agency may certify an environmental impact report or adopt a mitigated negative declaration for a project with a significant impact on an identified tribal cultural resource only if one of the following occurs:

(1) The consultation process between the California Native American tribe and the lead agency has occurred as provided in Sections 21080.3.1 and 21080.3.2 and concluded pursuant to subdivision (b) of Section 21080.3.2.

(2) The California Native American tribe has requested consultation pursuant to Section 21080.3.1 and has failed to provide comments to the lead agency, or otherwise failed to engage, in the consultation process.

(3) The lead agency has complied with subdivision (d) of Section 21080.3.1 and the California Native American tribe has failed to request consultation within 30 days.

As noted by the Technical Advisory, "consultation can continue throughout the CEQA process." (Technical Advisory to AB 52, at 6, fn. 6.)

**The City Initially Attempted To Comply With Its Tribal Consultation Obligations,  
But The Koi Nation's Requests For Project Information Went Unanswered By The  
City**

Given these requirements, the City initially purported to follow its obligations under AB 52 by emailing Robert Geary, Tribal Cultural Resources Director/Tribal Historic Preservation Officer, on February 16, 2022, advising of an opportunity to consult with it on potential impacts the Project may have on Tribal Cultural Resources ("TCR"). As set forth in the City's email:

You are receiving this email in accordance with Assembly Bill 52 (AB52) and Section 21080.3.1(b) of the California Public Resources Code (PRC). We are responding to your request to be notified of projects in our jurisdiction that will be reviewed under CEQA. We are hereby notifying you of an opportunity to consult with us regarding the potential impacts this project may have on Tribal Cultural Resources, as defined in Section 21074 of the PRC. The purposes of tribal consultation under AB52 are to determine, as part of the CEQA review process, whether or not Tribal Cultural Resources are present within the project area, and if so, whether or not those resources will be significantly impacted by the project. If tribal cultural resources may be significantly impacted, then consultation (if requested) will help to determine the most appropriate way to avoid to mitigate those impacts.



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. . . If your Tribal agency would like to formally request an AB 52 Tribal Consultation, please email or write your request and designated lead contact person within the required time frame noted above.

Mr. Geary timely responded in a February 23, 2022, letter to the City stating: "The Habematolel Pomo Cultural Resources Department has reviewed the project and concluded that it is within the aboriginal territories of Habematolel Pomo of Upper Lake. Therefore, we have a cultural interest and authority in the proposed project areas and would like to initiate a formal consultation with the lead agency." Mr. Geary further requested in his letter that the City provide a project timeline, detailed ground disturbance plan and the latest cultural resources study for the project. The Koi Nation and the Habematolel Pomo of Upper Lake have an agreement whereby Mr. Geary assists the Koi Nation with Tribal Cultural Resources ("TCR") issues. Mr. Geary is authorized to speak on behalf of the Koi Nation in AB 52 consultation, and this has been explained to the City multiple times.

Adeline Brown and Mark Roberts, on behalf of the City, then met with Mr. Geary on March 9, 2022, for purposes of AB 52 consultation for, in part, the Project. Mr. Geary followed up immediately. After the meeting, Mr. Geary sent a letter to the City the same day, on March 9, 2022, stating:

Thank you for your project consultation dated March 9, 2022, regarding cultural information on or near the proposed 18th Ave. Between SR53 and Old Hwy. 53, Clearlake, Lake County. We appreciate your effort to contact us and consult with our department.

The Habematolel Pomo Cultural Resources Department has reviewed the project with your agency and concluded that it is within the aboriginal territories of the Koi Nation and Habematolel Pomo of Upper Lake. Therefore, we have a cultural interest and authority in the proposed project area.

Based on the information provided at the above scheduled consultation, the Koi Nation has concerns that the project could impact known cultural resources. We request including cultural monitors during development and all ground disturbance activities. Additionally, we request that you incorporate Habematolel Pomo of Upper Lake's Treatment Protocol into the mitigation measures for this project and recommend cultural sensitivity training for any pre-project personnel on the first day of construction activities.

The letter requested that the City contact Mr. Geary to set up a monitoring agreement. Unfortunately, the City did not further respond to the Koi Nation's concerns, proposed feasible and culturally appropriate mitigation measures, and requests for more information, and the City did not further communicate as to any monitoring or mitigation agreement. Copies of the referenced communications between the City and Mr. Geary are attached for your reference. The City was reminded by the Koi Nation of these communications prior to setting a date for the appeal hearing on the Project, but the City did not recognize its error and instead scheduled the appeal hearing.

Based upon this series of letters and emails, the Koi Nation submits that it requested consultation, and a meeting occurred on March 9, 2022. The Koi Nation timely requested additional information including a project timeline, detailed ground disturbance plan and the latest cultural resources study for the Project



which the City had not provided,<sup>2</sup> and the Koi Nation also requested follow-up regarding a monitoring agreement and mitigation measures which the City did not pursue or even acknowledge or reply to. While the dialogue and consultation has started, the parties have not reached any agreement as to mitigation or monitoring. No party has declared that they have reached an impasse nor can they make such a declaration in good faith given the opportunity for ongoing consultation. Therefore, adoption of a MND is premature under section 21082.3. The lack of full and complete consultation as required by AB 52 will result in an invalid MND, and the Project cannot proceed absent CEQA compliance.

The Koi Nation understands moving the Project forward quickly is important to the City and the Project Applicant. The Koi Nation has already provided the City with available consultation dates, and would commit to meeting with the City for consultation quickly, should the City decide to take that prudent and practical approach. If the City does not, it may leave the Koi Nation no choice but to litigate to protect its Tribal Cultural Resources and the Ancestors.

**The City's MND Acknowledges A Meeting Between The Koi Nation And City, But The MND Misstates The Koi Nation's Position**

Notwithstanding the Koi Nation's attempts to obtain information and engage in on-going consultation, the City's position as to consultation is at best unclear. The MND suggests consultation has occurred, but it indicates that the Koi Nation simply wants the City to proceed cautiously and keep it informed. The Tribal Cultural Resources section of the draft MND recites:

in compliance with the City's Native American Tribal Consultation Program, Sub-Terra initiated tribal coordination with the Koi Nation of California to request any information that tribal representatives might provide regarding the cultural significance of the project area, and any interests or concerns the tribe may express regarding the project activity. Representatives of the Koi Nation expressed concern regarding a home that was historically occupied by a tribal member within the project vicinity. However, the home was located approximately 0.2-mile south of the project area. Nonetheless, the tribe asked that the City proceed with all due caution, and to continue coordination with the Koi Nation Tribal Council on all work scheduled for the proposed project. (Emphasis added.)

This statement of the Koi Nation's alleged position is apparently derived from the Project's Cultural Resource Investigation in which the City's consultant, Dr. Greg White, explained:

at Mr. Beltrans's request, a video conference was held on Thursday, January 6, 2022, attended by the author, Koi Nation Chairperson Mr. Darren Beltran, Koi Nation Treasurer Mr. Dino Beltran, Koi Nation Secretary Ms. Judy Fasthorse, and Koi Nation Cultural Monitor Ms. Yolanda Tovar. The author presented Project location and planning information for discussion. Koi Nation representatives advised that the Project should proceed with caution. Mr. Dino Beltran also asked that the author communicate with the City planning team regarding the location and tribal and archaeological significance of the Johnson property and residence. The author then contacted and arranged a video

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<sup>2</sup> The City Attorney did provide a copy of the Cultural Resources Study, dated August 4, 2022, to the Koi Nation's counsel on January 31, 2023, two days before the appeal hearing.



conference with City Planner Mr. Alan Flora on February 2, 2022, and presented the findings and concerns expressed by Koi Nation representatives. Mr. Flora confirmed that the City would proceed with all due caution and Mr. Flora committed to continue coordination with the Koi Nation Tribal Council on all work scheduled for the Airport Commercial Property. (Emphasis added)

(Cultural Resource Investigation at 8-9.) Mr. Flora did not keep his commitment, which led to the present dispute. Had the City consulted with the Koi Nation properly, the concerns raised in this letter could have been easily resolved months ago, and the Project would not have been delayed.

The Koi Nation appreciates that Dr. White reached out to the Koi Nation early in the process for "tribal coordination." That is a good best practice. It is neither reasonable nor accurate, however, for the City's MND to characterize a meeting occurring more than a month prior to sending the Koi Nation an AB 52 project notice as "tribal consultation." While CEQA is a procedural statute, and the City has committed procedural violations pursuant to CEQA and AB 52, the Koi Nation's concerns are substantive. When the Koi Nation sent its proposed culturally appropriate mitigation measures, and then did not hear back, its reasonable expectation was that the City was considering them, not that the City had rejected them out of hand with no further analysis or communication with the Koi Nation.

This recitation demonstrates the MND's summary is not entirely accurate. While the Koi Nation urged the City to proceed with caution, it did not ask the City to simply keep it informed of progress. Rather the City volunteered it would "continue coordination with the Koi Nation Tribal Council on all work scheduled for the Airport Commercial Property." Unfortunately, the City has not upheld its commitment to continue coordination with the Koi Nation, but it has declined to provide requested information or engage in a consultation process. The Cultural Resource Investigation then indicates "[a]s of this writing, August 5, 2022, no additional tribal coordination communications regarding the Project have been received." (Cultural Resource Investigation at 9.) To the contrary, the written record, as discussed above, demonstrates the Koi Nation communicated its concerns about TCR to the City, requested additional written reports and information from the City and sought culturally appropriate mitigation measures and a tribal monitoring agreement from the City. The City ignored these requests from the Koi Nation and apparently even its own archaeological consultant is not aware of these requests. The City's own lack of internal coordination with its expert should not keep the Koi Nation from having a seat at the table, as granted by law, to protect its TCR and Ancestors.

**The City Failed To Advise The Planning Commission Of The Koi Nation's Request For Consultation And Of The City's Failure To Respond To The Koi Nation's Request For Project Mitigation Measures Through Consultation**

The City again erroneously described the consultation status and the Koi Nation's role during the December 13, 2022, hearing before the Planning Commission. At that hearing, Commissioner McCarrick asked staff: "I was wondering if an AB 52 consultation had happened." City staff could have detailed the initial March 9, 2022 meeting and the Koi Nation's requests for information from the City that went unanswered. Rather than answer Commissioner's McCarrick's question, City staff improperly attempted to equate responding to an initial study with the AB 52 consultation process by responding "[s]o when the initial study was sent out for the 30-day review, it was sent to all agencies, and we didn't receive any comments or concerns from the local tribal organizations." City staff's response appears to be based



upon an improper attempt to equate comments on an initial study with the robust consultation requirements of AB 52. Tribal Nations are sovereign governments, not "organizations" or "agencies." They have unique standing in the government-to-government process required by AB 52 and CEQA. Thus, the ability of local agencies to comment on a proposed CEQA document differs from the government-to-government consultation required under AB 52. AB 52 expressly establishes a consultation process, which the Koi Nation and City commenced but did not complete, rather than simply an opportunity to comment upon a proposed document. Additionally, consultation is supposed to occur before release of the environmental document, so that there is time to incorporate a Tribal Government's concerns into relevant studies, and address them in the environmental document. The City has provided the Koi Nation with no explanation and no authority supporting its apparent position that AB 52 consultation once commenced is terminated if a Tribal Government does not formally comment on a draft initial study or other document prepared for CEQA compliance during the public comment process.

The Koi Nation repeatedly attempted to engage in consultation with the City and requested various documents. It was the City, not the Koi Nation, that never responded to the Koi Nation's identification of TCR and recommended mitigation measures. Given the City's failure to fully engage in consultation, no party can legitimately claim the parties' consultation efforts are at an impasse.

**Consultation Is Required To Address Tribal Cultural Resources Adjacent To And Potentially On The Project Site That Are Unaddressed In The MND.**

Had the City engaged in complete and meaningful consultation, and as part of any renewed consultation, the Koi Nation remains willing to discuss not only the potential TCR on the Project site but as importantly, known TCRs adjacent and in close proximity to the Project site that are part of a Tribal Cultural Resources Landscape, which is a type of TCR as defined by AB 52. In examining such impacts, it is crucial to consider the occupancy of the land now comprising the City by Indigenous populations since time immemorial. As Sub-Terra Consultants, the same archaeological consultants retained by the City for this Project, explained in its Extended Phase 1 Investigation for the City's Mullen Avenue Storm Drain Project:

California's first peoples found Clear Lake Basin a remarkable resource island: a gentle basin in a region of steep and rugged ranges; a grand lake of 69.5 square miles (180 km<sup>2</sup>) in a region with few and dispersed perennial water sources; a mosaic of alluvial grasslands and stands of great valley oaks in a region of dense and desolate chaparral; waterways supporting rich, diverse, and multi-season fisheries in a region with few and mostly seasonal fisheries; broad swaths of lacustrine marsh with freshwater shellfish, pond turtles, waterfowl, and green rushes in a region of harsh, dry hills, and; two major sources of highly tractable obsidian toolstone in a region dominated by coarse-grained chert, quartzite, and basalt materials. The quantity and diversity of key natural resources concentrated in the part of Clear Lake basin now occupied by the City of Clearlake was exceptional; this is reflected in a high prehistoric population density and a dense, ancient, and complex archaeological record.

(Extended Phase 1 Investigation, at 14.) After describing this density, Dr. White then noted that meandering creeks and shifting outlets "suggest[ed] that sites still embedded in the landscape could be found in unexpected or counter-intuitive locations." (*Id.* at 16.) Based upon this density, the California Transportation Department properly noted in its comments to the Project MND that: "This area is



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sensitive for archaeological resources. Current records indicate that resources are present. In the event that construction activities could be limited to previously disturbed areas, risk will be significantly reduced. Native American Consultation will be key to successful project implementation. The area is of elevated concern to local Tribes." (Comment Letter, at 2-3, emphasis added.)

Several specific sites with documented TCR are in very close proximity to the Project site. The exact location of archaeological, cultural, and TCR is confidential, but the City has ample evidence of this in its administrative record. For example, the Cultural Resources Investigation for this Project, which the City Council has access to, states that "three surveys identified a major prehistoric archaeological site, CA-LAK-510... which lies just 250 feet (75 meters)... [from] of the Project area." (Cultural Resources Investigation, at 4.) Several of these sites are displayed on the confidential tribal cultural resources maps which will be submitted confidentially to the City with this letter. The maps also indicate that the Project site and roadway extension essentially abut portions of the Lower Lake Rancheria that existed until the 1950's. As also acknowledged by Dr. White, the "Johnson" homesite is located within .2 miles of the Project site. (*Id.* at 8.) This site is associated with important tribal healers and cultural practitioners, and given its tribal cultural significance, it may be eligible for the California Register of Historical Resources. (See Pub. Resources Code § 5024.1.) The criteria for inclusion in the California Register of Historical Resources includes an association with events that have made a significant contribution to the broad patterns of California's history and cultural heritage, or association with the lives of persons important in our past, or that has yielded, or may be likely to yield, information important in prehistory or history. (Pub. Resources Code § 5024.1(c).)

Here, the Johnson housing site is associated with a very important person to the Koi Nation, who was recognized by Dr. Samuel Barrett, a renowned UC Berkeley anthropologist, for his significance to the development of Pomo ethnography. (See S.A. Barrett, Material Aspects of Pomo Culture, Part One, (March 1952) Bulletin of the Public Museum of the City of Milwaukee, at 12.) Chairman Beltran and Vice Chairman Beltran are direct descendants of the Johnson family, and their legacy made a lasting impact on the history of Clearlake. The Lower Lake Rancheria itself is also historically significant, and associated with events that made a significant contribution to California's history and cultural heritage. The Tribal Cultural Landscape that the Project is within, which contains many TCR sites, has yielded or may be likely to yield information important in prehistory or history. The City has this information already, but it did not use it to make a significance determination and apply culturally appropriate mitigation measures. Rather, it simply used generic archeological mitigation measure to address this concern and did not analyze the Project impacts using the tribal cultural knowledge and perspective shared by the Koi Nation in consultation.

Dr. White provided a robust archaeological and cultural report for this Project and recommended archeological mitigation measures, which are in the MND. However, such a report is not a substitute for a Tribal Cultural Resources survey. Respectfully, archaeologists, even those as experienced as Dr. White, do not speak for a Tribal Government when it comes to culturally appropriate mitigation measures for TCR. There is no analysis of culturally appropriate mitigation measures for TCR in this MND. Rather, in the section on TCR the City merely references the mitigation measures for archeological resources. Addressing the category of Cultural Resources together with the distinct category of Tribal Cultural Resources by simply cross-referencing its prior cultural resources analysis without tribal input obtained through the AB 52 consultation process has been illegal since July 1, 2015, when AB 52 went into effect. However, comments by City staff at the Planning Commission meeting indicate this is exactly what the





City did through the defective MND indicating the two analyses were essentially the same. As noted by City staff, "typically when we do conditions of approval or mitigation measures, it's the same mitigation measure or conditions of approval that would go for cultural or tribal so that's why we just usually do cultural slash tribal in the conditions of approval."

Archaeological information may inform a tribal cultural resources assessment, but it is no substitute for input from the California Native American Tribal government which is traditionally and culturally affiliated with the area. (See AB 52, § 1 ["California Native American tribes may have expertise with regard to their tribal history and practices, which concern the tribal cultural resources with which they are traditionally and culturally affiliated.].) There is ample evidence in the record that the area is a tribal cultural landscape and that many TCR are in close proximity to the Project site. It is likely that more TCR may be encountered during construction, which is why tribal input, tribal monitors and a tribal cultural resources treatment plan are warranted. As it stands, an archaeologist will not even be on site during ground disturbance, but will merely be contacted in there is an inadvertent discovery. In an area acknowledged by many studies, including many studies in the Administrative Record, it is not reasonable for the City to disregard this substantial evidence of a potential TCR impact and a significant cumulative impact to TCR resources.

**Consultation Is Especially Required To Address Tribal Cultural Resources Resulting From The City's Longstanding Use Of The Airport Property, Of Which The Project Site Is A Part, To Store Soil And Spoils Piles Which Have Been Documented To Contain TCR And Human Remains.**

The Project site itself is part of the former Pearce Airport which the City has used for many years to store soil spoils imported from other locations within the City. As the Project's Cultural Resource Investigation confirms: "The former airstrip is now peppered by many piles of crushed concrete, crushed pavement, sorted and unsorted gravel, mixed road-base, and surplus soils imported and dumped here by the City and its contractors. Some of these piles contain obsidian chunks and flakes, all associated with the dumped foreign fills." (Cultural Resource Investigation, at 9.) The MND specifically recites as to the Project site that: "From the 1990's to the present day, the project area has served as the City's materials storage yard, resulting in further modification by introduction of fill materials of various kinds and from various sources." (*Ibid.*, emphasis added.) Although the City does not appear to have a record keeping process for documenting the original location, composition or disposition of such soil, Tribal members have independently documented that spoil piles likely contain TCR. Specific documentation for piles located on the airport site from the Mullen Avenue Storm Drain Project confirms the presence of TCR and human remains in at least one instance. In an October 13, 2020, email to the Koi Nation, the City's consultant, Dr. White, confirmed:

Spoils from the newly-installed storm drain trench on Mullen Avenue between Palmer Avenue and Lakeshore Drive, City of Clearlake, Lake County, California, were deposited in two locations, in a temporary storage yard located on Pearl Avenue near Alvita and in a City storage yard at the former Pearce Airport site off Old Hwy 53. The spoils are primarily composed of disturbed deposits and mixed fill but they contain extensive archaeological materials derived from prehistoric site Ca-Lak-39. While the spoils are by definition disturbed deposits, they contain a high density and diversity of archaeological materials including chipped stone projectile points and other hand-tools, obsidian trade blanks, ground stone tools, and shell and animal bone food refuse. Fragmentary human remains are also likely to be contained in the deposits.



While the City asserts that the Mullen Project spoils are no longer on the airport site, it is unknown whether other piles on or in close proximity to the Project site may contain TCRs or human remains and whether such spoils, and materials therein, have been spread over other areas of the airport site including the Project site. The Koi Nation has filed a narrow Public Records Act request with the City to obtain more information about this issue. Even if the Mullen Project spoils are no longer on the airport site, the Koi Nation's concern that this egregious event could happen again is valid. Here, the Project is on the location of the City's materials storage yard, by the City's own admission in its own expert's study. Therefore, the reasonable and culturally appropriate thing to do is engage the Koi Nation in a Tribal Cultural Resources Treatment Protocol, as previously requested during AB 52 consultation, which will address the soil and spoils issue for the portions of the airport and storage yard that the Project footprint, or any Project related activities impact.

Given the existence of tribal cultural artifacts and resources throughout numerous sites within the City in very close proximity to the Project site, simply halting work upon TCR discovery, as contemplated by the current mitigation measures, while some unspecified analysis will then occur is not sufficient. (See *Golden Door Properties, LLC v. County of San Diego* (2020) 50 Cal.App.5th 467, 520-521 [deferral of mitigation without objective and measurable standards or reasonable assurance an impact will be reduced is an error].) Although CEQA provisions potentially allow for deferral of analysis in cases of "accidental discovery" (see Pub. Resources Code § 21083.2(i)), information produced by both the City and the Koi Nation all but guarantees that the discovery of cultural artifacts and resources on the site will not be "accidental," and mitigation must therefore be put in place prior to any ground disturbing activities. Such mitigation must include completing consultation with relevant Koi Nation representatives, before adopting the MND and Project approval, adoption of the Koi Nation's Tribal Cultural Resources Treatment Protocols into project Mitigation Measures, and Cultural Sensitivity Training conducted by the Koi Nation for construction crew members before any ground disturbing activities occur on the Project site. These are the steps requested by the Koi Nation through the initial consultation, and the Koi Nation and City must explore and attempt to reach agreement as to such measures before the necessary consultation is concluded.

### **Consultation Is Required To Address Cumulative Impacts To Tribal Cultural Resources.**

Additionally, consultation necessarily addresses not only the specific project site but the Project's cumulative impacts. As courts recognize,

[c]umulative impact analysis is necessary because the full environmental impact of a proposed project cannot be gauged in a vacuum. One of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources. These sources appear insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact.

(*Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 114, disapproved on other grounds.) Impacts are cumulatively considerable if the effects of a project are significant when viewed in connection with the effect of past projects, other current projects and probable future projects. (Pub. Resources Code § 21083(b)(2).)



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The City has already engaged in a number of projects which have disturbed significant TCRs and Native American human remains. The recent Austin Park Splash Pad project is one such example, and the Mullen Avenue Drain Project is another. Prior to construction starting for the Austin Park Project, the Koi Nation repeatedly warned the City that the archeological reports for the area were not completely accurate. The Koi Nation told the City that it had a very high likelihood of encountering TCR, including an intact village site that is several thousand years old. The Koi Nation also warned the City that due to its pattern and practice of using and moving soil from one site to another throughout the City without analyzing and documenting whether the sites are TCR sites, there was also a high likelihood that the City would encounter more TCR that had been moved on top of the village site from another location. That is exactly what happened. Thankfully, the City listened to the Tribe enough to have tribal monitors present, and they discovered over 1,5000 tribal cultural resources.

Those who do not learn from the past are doomed to repeat it. Here, the Koi Nation is again warning the City that it is about to engage in construction in a culturally sensitive area. By the City's own admission, it has used the Project site to store soil and spoils piles from unknown locations. The City may encounter both TCR that are original to this site, especially because the hotel requires a great deal of excavation, and TCR which are present because of the City's lax soil and spoil storage practice.

To avoid perpetuating this cycle further, no soils should be removed from the Project site unless they are determined by the Koi Nation not to be cultural soils. If they are cultural soils, they should be addressed pursuant to the Koi Nation's Tribal Cultural Resources Treatment protocol.

In the Mullen Project, soils containing TCR and likely also containing Native American human remains were removed from a project site, transported to the airport site for storage, and then removed by a contractor for use as construction material. The City later worked with the Koi Nation to address this egregious event. Notwithstanding these prior projects admittedly impacting TCR, the MND summarily concludes that: "when viewed in conjunction with other closely related past, present, or reasonably foreseeable future projects, development of the proposed project would not result in a cumulatively considerable contribution to cumulative impacts in the City, and the project's incremental contribution to cumulative impacts would be less than significant with mitigation incorporated." However, there is no analysis of cumulative impacts as part of either the Cultural or Tribal Cultural analysis. The City's pattern and practice of engaging in development projects without meaningful good faith tribal consultation, and without mutually agreeable feasible and culturally appropriate mitigation measures, is creating a cumulative impact to TCR which violates CEQA, and which is unethical and disrespectful to the cultural values and Ancestors of people who are part of the Clearlake community. Thus, at least as to cultural and TCR, the MND lacks analysis and support and cannot stand. The City must fully examine such cumulatively considerable TCR impacts and adopt appropriate mitigation measures through meaningful consultation between the City and the Koi Nation.

### **Conclusion**

Even though written correspondence fails to support any argument by the City that the Koi Nation ceased to engage in the AB 52 consultation process or that the process is complete, the Koi Nation hopes to avoid any misunderstanding as to the status of the AB 52 consultation process for the Project. Such consultation is a necessary and required component of the City's CEQA compliance for the Project in order to assure the public that a full discussion and consideration of appropriate mitigation measures has



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occurred. Therefore, the Koi Nation takes this opportunity to renew or reinitiate the consultation process. The Koi Nation requests that the City agree to meet with its representatives to further consult about the Project at the earliest opportunity, and that further action on Project approval be halted for a brief period to allow for the required consultation. Full and complete consultation is required in order to adequately understand the TCR impacted by the Project and to develop meaningful and culturally appropriate mitigation measures. Absent further dialogue, the City fails to comply with section 21082.3(d) and for this reason alone the MND is inadequate and cannot stand.<sup>3</sup>

Sincerely,

KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD



WILLIAM T. CHISUM

Attachments

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<sup>3</sup> Please note the concerns and legal issues in this letter are consistent with issues raised by California Attorney General Rob Bonta in a July 11, 2022, comment letter regarding the draft environmental impact report for a project in Riverside County. A copy of the Attorney General's letter is attached for your reference.



**Exhibits**

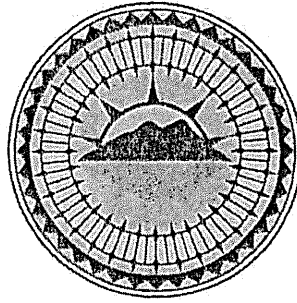
- A. Maps of Project Site Annotated By Koi Nation
- B. City February 16, 2022 Email from City to Koi Nation
- C. Koi Nation February 23, 2022 Letter from R. Geary to City re: Consultation Follow Up Information Requests and Culturally Appropriate Mitigation Measures
- D. March 9, 2022 Meeting Agenda
- E. March 9, 2022 Sign-in Sheet
- F. Koi Nation March 9, 2022 Letter from R. Geary to City
- G. December 13, 2022 Planning Commission Partial Transcript
- H. Extended Phase 1 Investigation of the Mullen, Pearl, and Emory Storm Drain Project (Available to the City Council and Staff but Not Included Due to Confidentiality Concerns)
- I. Extended Phase 1 Investigation of the Mullen, Pearl, and Emory Storm Drain Project, Addendum 3 (Available to the City Council and Staff but Not Included Due to Confidentiality Concerns)
- J. October 13, 2020 Dr. Greg White Email to Koi Nation Vice Chairman Dino Beltran
- K. Cultural Resource Investigation of the 2.8-Acre Clearlake Airport Parcel APN 04212125 and the 3.47-Acre Proposed 18<sup>th</sup> Avenue Extension, City of Clearlake, Lake County, California (Available to the City Council and Staff but Not Included Due to Confidentiality Concerns)
- L. November 30, 2022 California Department of Transportation Comment Letter for the Airport Hotel and 18<sup>th</sup> Avenue Extension Project
- M. July 11, 2022 California Attorney General EIR Comment Letter for the Stoneridge Commerce Center Project
- N. S.A. Barrett, Material Aspects of Pomo Culture, Part One, (March 1952) Bulletin of the Public Museum of the City of Milwaukee



## **EXHIBIT A**

Available To City Council And City Staff But  
Not Included Due To Confidentiality Concerns

**EXHIBIT B**



**HABEMATOLEL POMO  
CULTURAL RESOURCES**

February 16, 2022

City of Clearlake  
14050 Olympic Drive  
Clearlake, CA 95423

Re: California Environmental Quality Act Public Resources Code section 21080.3, subd. (b)  
Request for Formal Notification of Proposed Projects Within the Habematolel Pomo of  
Upper Lake Tribe's Geographic Area of Traditional and Cultural Affiliation

Dear: City of Clearlake:

As of the date of this letter, in accordance with Public Resources Code Section 21080.3.1, subd. (b), the Habematolel Pomo of Upper Lake, which is traditionally and culturally affiliated with a geographic area within your agency's geographic area of jurisdiction, requests formal notice of and information on proposed projects for which your agency will serve as a lead agency under the California Environmental Quality Act (CEQA), Public Resources Code section 21000 et seq.

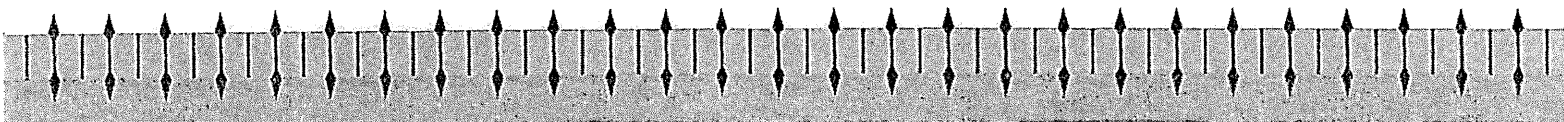
Pursuant to Public Resources Code section 21080.3.1, subd. (b), and until further notice, we hereby designate the Tribal Historic Preservation Officer as the tribe's lead contact person for purposes of receiving notices of proposed projects from your agency:

Robert Geary: Tribal Historic Preservation Officer (THPO)  
PO Box 516  
Upper Lake, CA 95485  
Office: (707) 900-6923, Email: Rgeary@hpultribe-nsn.gov

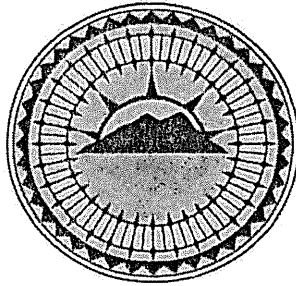
We request that all notices be sent via certified U.S. Mail with return receipt. Following receipt and review of the information your agency provides, within the 30-day period proscribed by Public Resources Code section 21080.3.1, subd. (d), the Habematolel Pomo of Upper Lake may request consultation, as defined by Public Resources Code section 21080.3.1, subd. (b), pursuant to Public Resources Code section 21080.3.2 to mitigate any project impacts a specific project may cause to tribal cultural resources.

HABEMATOLEL POMO OF UPPER LAKE

P: 707.900.6923 F: 707.275.0757 P.O. Box 516 Upper Lake, CA 95485







**HABEMATOLEL POMO  
CULTURAL RESOURCES**

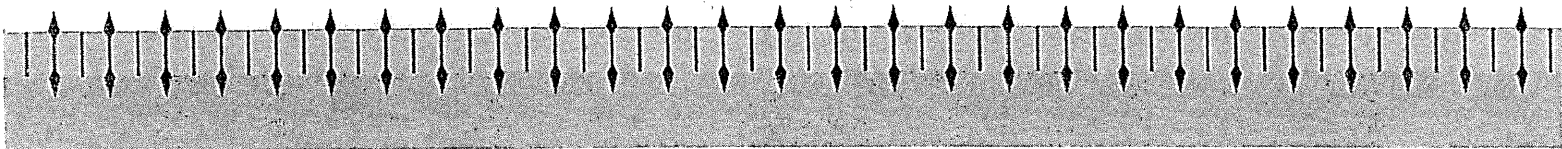
If you have any questions or need additional information, please contact our lead contact person listed above.

Sincerely,

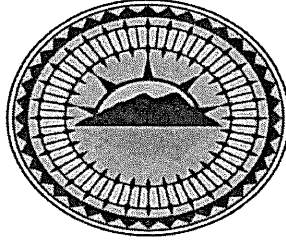
A handwritten signature in black ink, appearing to read "Robert Geary". The signature is fluid and cursive, with a large initial "R" and "G".

Robert Geary  
Cultural Resources Director/Tribal Historic Preservation Officer

CC: Native American Heritage Commission  
1550 Harbor Boulevard, Suite 100  
West Sacramento, California 95691



**EXHIBIT C**



**HABEMATOLEL POMO  
CULTURAL RESOURCES**

February 23, 2022

City of Clearlake  
Attn: Engineering Department  
14050 Olympic Drive,  
Clearlake, CA 95422

RE: 18<sup>th</sup> Ave. Hotel Project HP-20220216-02

Dear Ms. Adeline Brown:

Thank you for your project notification letter dated February 16, 2022, regarding cultural information on or near the proposed 18th Ave. between SR53 and Old Hwy. 53, Clearlake, in Lake County. We appreciate your effort to contact us and wish to respond.

The Habematolel Pomo Cultural Resources Department has reviewed the project and concluded that it is within the aboriginal territories of the Habematolel Pomo of Upper Lake. Therefore, we have a cultural interest and authority in the proposed project area and would like to initiate a formal consultation with the lead agency. At your earliest convenience, please provide our Cultural Resources Department with a project timeline, detailed ground disturbance plan and the latest cultural resources study for this project.

Please contact the following individual to coordinate a date and time for the consultation meeting:

Robert Geary, Tribal Historic Preservation Officer (THPO)  
Habematolel Pomo of Upper Lake  
Office: (707) 900-6923  
Email: [rgeary@hpultribe-nsn.gov](mailto:rgeary@hpultribe-nsn.gov)

Please refer to identification number HP-20220216-02 in any correspondence concerning this project.

Thank you for providing us the opportunity to comment.

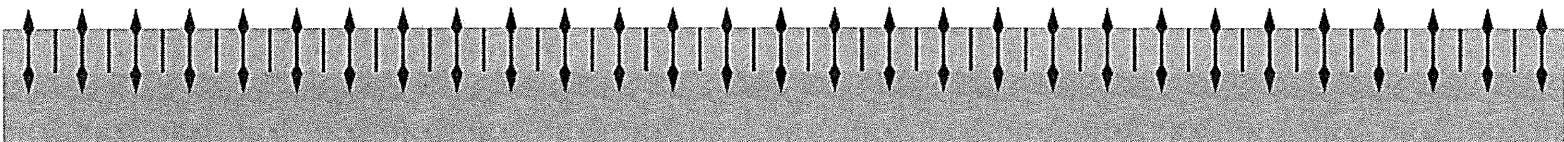
Sincerely,

A handwritten signature in black ink, appearing to read "Robert Geary". The signature is fluid and cursive, with a large initial "R" and a long, sweeping underline.

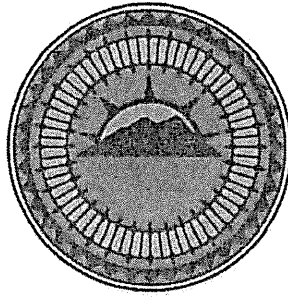
Robert Geary  
Cultural Resources Director/Tribal Historic Preservation Officer

HABEMATOLEL POMO OF UPPER LAKE

P: 707.900.6923 F: 707.275.0757 P.O. Box 516 Upper Lake, CA 95485



# **EXHIBIT D**



**HABEMATOLEL POMO  
CULTURAL RESOURCES**

AB 52 Consultation Meeting between  
City of Clearlake and  
Habematolel Pomo of Upper Lake  
Regarding the 18th Avenue Road Improvement, Dam Road Extension & South Center  
Drive, Dam Road Roundabout, Clearlake Austin Park Splash Pad Projects

HP-20220216-02, HP-20220217-01, HP-20220216-01, HP-20220216-03

Location: Clearlake City Hall,

Council Chambers

Start time: 10:00am

Date: Wednesday, March 9, 2021

Meeting Agenda

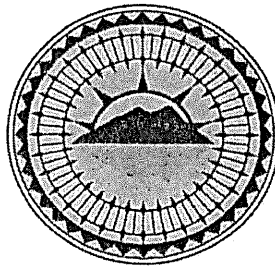
1. Introductions
2. Project Update
  - a. Scope of work
  - b. Ground disturbance
  - c. Timeline
  - d. Tribes comments and concerns
3. Mitigation Measures
  - a. Cultural Sensitivity Training
4. Summary/Closing comments

**EXHIBIT E**



# EXHIBIT F





**HABEMATOLEL POMO  
CULTURAL RESOURCES**

March 9, 2022

City of Clearlake: Engineering Department  
Attn: Adeline Brown, Engineer Tech/Construction Manager  
14050 Olympic Drive,  
Clearlake, CA 95422

RE: 18<sup>th</sup> Ave. Road Improvement Project HP-20220216-02

Dear Ms. Adeline Brown:

Thank you for your project consultation dated, March 9, 2022, regarding cultural information on or near the proposed 18<sup>th</sup> Ave. Between SR53 and Old Hwy. 53, Clearlake, Lake County. We appreciate your effort to contact us and consult with our department.

The Habematolel Pomo Cultural Resources Department has reviewed the project with your agency and concluded that it is within the aboriginal territories of the Koi Nation and Habematolel Pomo of Upper Lake. Therefore, we have a cultural interest and authority in the proposed project area.

Based on the information provided at the above scheduled consultation, the Tribe has concerns that the project could impact known cultural resources. We request including cultural monitors during development and all ground disturbance activities. Additionally, we request that you incorporate Habematolel Pomo of Upper Lake's Treatment Protocol into the mitigation measures for this project and recommend cultural sensitivity training for any pre-project personnel on the first day of construction activities.

To setup a monitoring agreement, please contact the following individual:

Robert Geary, Tribal Historic Preservation Officer (THPO)  
Habematolel Pomo of Upper Lake  
Office: (707) 900-6923  
Email: [Rgeary@hpultribe-nsn.gov](mailto:Rgeary@hpultribe-nsn.gov)

Please refer to identification number HP -20220216-02 in any correspondence concerning this project.

Thank you for providing us the opportunity to comment.

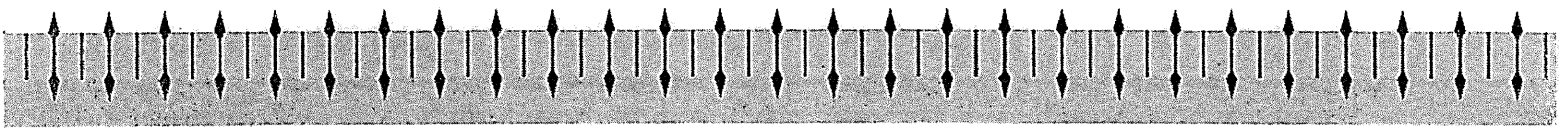
Sincerely,

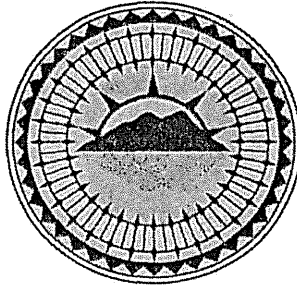
Robert Geary

Director of Cultural Resources/Tribal Historic Preservation Officer

HABEMATOLEL POMO OF UPPER LAKE

P: 707.900.6923 F: 707.275.0757 P.O. Box 516 Upper Lake, CA 95485





## **HABEMATOLEL POMO CULTURAL RESOURCES**

### **Treatment Protocol for Handling Human Remains and Cultural Items Affiliated with the Habematolel Pomo of Upper Lake**

The purpose of this Protocol is to formalize procedures for the treatment of Native American human remains, grave goods, ceremonial items, and items of cultural patrimony, in the event that any are found in conjunction with development, including archaeological studies, excavation, geotechnical investigations, grading, and any ground disturbing activity. This Protocol also formalizes procedures for Tribal monitoring during archaeological studies, grading, and ground-disturbing activities.

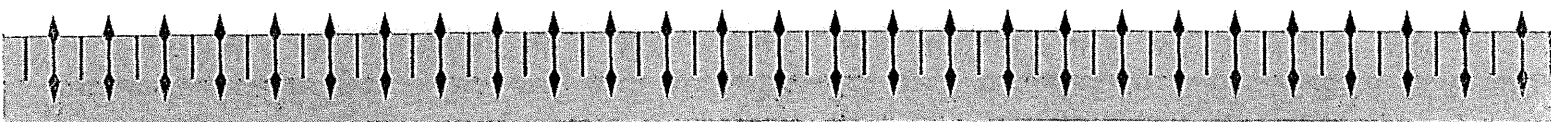
#### ***I. Cultural Affiliation***

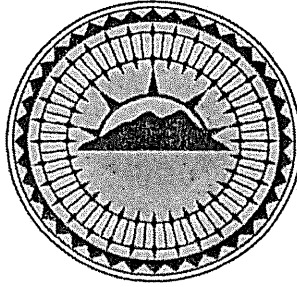
The Habematolel Pomo of Upper Lake ("Tribe") traditionally occupied lands in Lake and Mendocino Counties. The Tribe has designated its Tribal Historic Preservation Officer ("THPO") to act on the Tribe's behalf with respect to the provisions of this Protocol. Any human remains which are found in conjunction with Projects on lands culturally affiliated with the Tribe shall be treated in accordance with Section III of this Protocol. Any other cultural resources shall be treated in accordance with Section V of this Protocol.

#### ***II. Inadvertent Discovery of Native American Human Remains***

Whenever Native American human remains are found during the course of a Project, the determination of Most Likely Descendant ("MLD") under California Public Resources Code Section 5097.98 will be made by the Native American Heritage Commission ("NAHC") upon notification to the NAHC of the discovery of said remains at a Project site. If the location of the site and the history and prehistory of the area is culturally-affiliated with the Tribe, the NAHC will contact the Tribe's identified Most Likely Descendant; the MLD will coordinate with the Tribe's Executive Council to designate an individual to represent the Tribe in consultations with the landowner and/or project proponents.

Should the NAHC determine that a member of an Indian tribe other than Habematolel Pomo of Upper Lake is the MLD, and the Tribe is in agreement with this determination, the terms of this Protocol relating to the treatment of such Native American human remains shall not be applicable; however, that situation is very unlikely.





## HABEMATOLEL POMO CULTURAL RESOURCES

### *III. Treatment of Native American Remains*

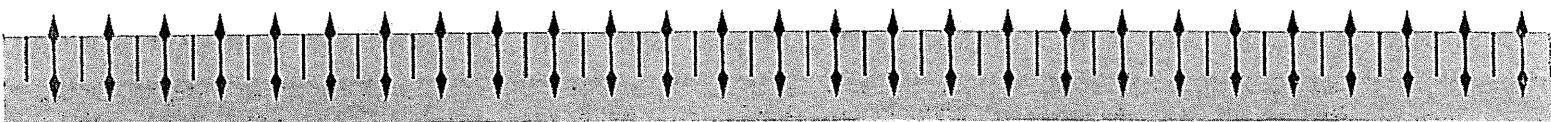
In the event that Native American human remains are found during development of a Project and the Tribe, or a member of the Tribe is determined to be MLD pursuant to Section II of this Protocol, the following provisions shall apply. The Medical Examiner shall immediately be notified, ground disturbing activities in that location shall cease and the Tribe shall be allowed, pursuant to California Public Resources Code Section 5097.98(a), to (1) inspect the site of the discovery and (2) make determinations as to how the human remains and grave goods should be treated and disposed of with appropriate dignity.

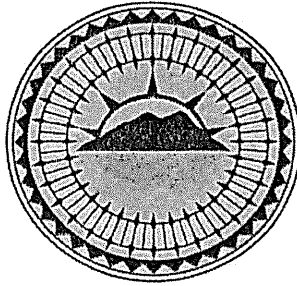
The Tribe shall complete its inspection and make its MLD recommendation within forty-eight (48) hours of getting access to the site. The Tribe shall have the final determination as to the disposition and treatment of human remains and grave goods. Said determination may include avoidance of the human remains, reburial on-site, or reburial on tribal or other lands that will not be disturbed in the future.

The Tribe may wish to rebury said human remains and grave goods or ceremonial and cultural items on or near the site of their discovery, in an area which will not be subject to future disturbances over a prolonged period of time. Reburial of human remains shall be accomplished in compliance with the California Public Resources Code Sections 5097.98(a) and (b).

The term "human remains" encompasses more than human bones because the Tribe's traditions call for the burial of associated cultural items with the deceased (funerary objects), and/or the ceremonial burning of Native American human remains, funerary objects, grave goods and animals. Ashes, soils and other remnants of these burning ceremonies, as well as associated funerary objects and unassociated funerary objects buried with or found near the Native American remains are to be treated in the same manner as bones or bone fragments that remain intact.

### *IV. Non-Disclosure of Location of Reburials*





## HABEMATOLEL POMO CULTURAL RESOURCES

Unless otherwise required by law, the site of any reburial of Native American human remains shall not be disclosed and will not be governed by public disclosure requirements of the California Public Records Act, Cal. Govt. Code § 6250 *et seq.* The Medical Examiner shall withhold public disclosure of information related to such reburial pursuant to the specific exemption set forth in California Government Code Section 6254(r). The Tribe will require that the location for reburial is recorded with the California Historic Resources Inventory System ("CHRIS") on a form that is acceptable to the CHRIS center. The Tribe may also suggest that the landowner enter into an agreement regarding the confidentiality of site information that will run with title on the property.

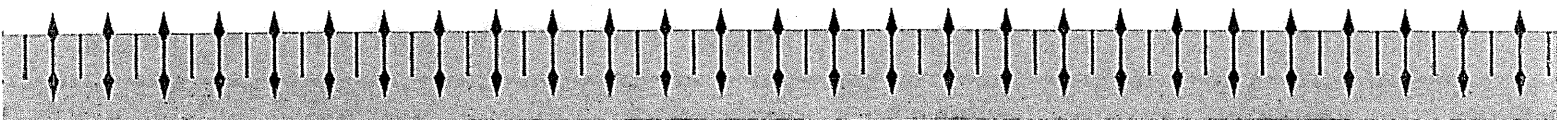
### *V. Treatment of Cultural Resources*

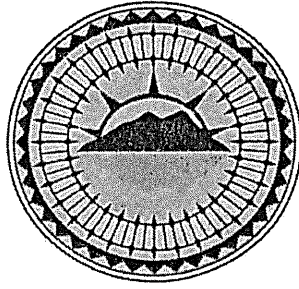
Treatment of all cultural items, including ceremonial items and archeological items will reflect the religious beliefs, customs, and practices of the Tribe. All cultural items, including ceremonial items and archeological items, which may be found at a Project site should be turned over to the Tribe for appropriate treatment, unless otherwise ordered by a court or agency of competent jurisdiction. The Project Proponent should waive any and all claims to ownership of Tribal ceremonial and cultural items, including archeological items, which may be found on a Project site in favor of the Tribe. If any intermediary, (for example, an archaeologist retained by the Project Proponent) is necessary, said entity or individual shall not possess those items for longer than is reasonably necessary, as determined solely by the Tribe.

### *VI. Inadvertent Discoveries*

If additional significant site or sites not identified as significant in a Project environmental review process, but later determined to be significant, are located within a Project impact area, such sites will be subjected to further archeological and cultural significance evaluation by the Project Proponent, the Lead Agency, and the Tribe to determine if additional mitigation measures are necessary to treat sites in a culturally appropriate manner consistent with CEQA requirements for mitigation of impacts to cultural resources. If there are human remains present that have been identified as Native American, all work will cease for a period of up to 30 days in accordance with Federal Law.

### *VIII. Work Statement for Tribal Monitors*

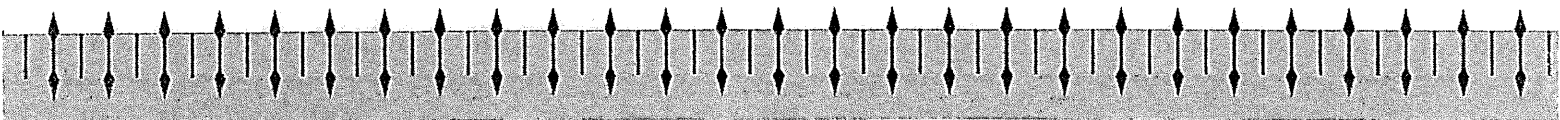


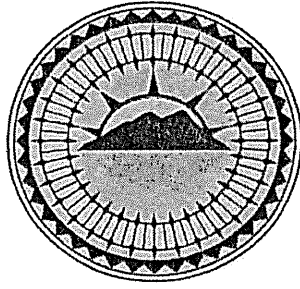


**HABEMATOLEL POMO  
CULTURAL RESOURCES**

The description of work for Tribal monitors of the grading and ground disturbing operations at the development site is attached hereto as Addendum I and incorporated herein by reference.

**ADDENDUM I**





## HABEMATOLEL POMO CULTURAL RESOURCES

### Habematolel Pomo of Upper Lake Tribal Monitors Description of Work and Treatment Protocol

#### *I. Preferred Treatment*

The preferred protocol upon the discovery of Native American human remains is to (1) secure the area, (2) cover any exposed human remains or other cultural items, and (3) avoid further disturbances in the area.

#### *II. Comportment*

All parties to the action are strongly advised to treat the remains with appropriate dignity, as provided in Public Resource Code Section 5097.98. We further recommend that all parties to the action treat tribal representatives and the event itself with appropriate respect. For example, jokes and antics pertaining to the remains or other inappropriate behavior are ill advised.

#### *III. Excavation Methods*

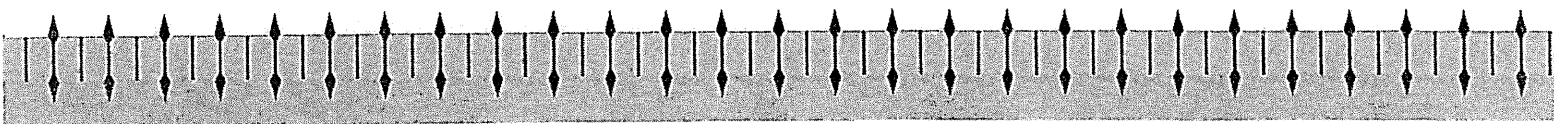
If, after the Habematolel Pomo of Upper Lake Tribal representative has been granted access to the site and it is determined that avoidance is not feasible, an examination of the human remains will be conducted to confirm they are human and to determine the position, posture, and orientation of the remains. At this point, we recommend the following procedures:

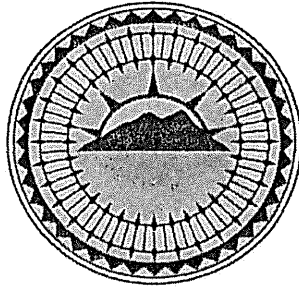
*(A) Tools.* All excavation in the vicinity of the human remains will be conducted using fine hand tools and fine brushes to sweep loose dirt free from the exposure.

*(B) Extent of Exposure.* In order to determine the nature and extent of the grave and its contents, controlled excavation should extend to a full buffer zone around the perimeter of the remains.

*(C) Perimeter Balk.* To initiate the exposure, a perimeter balk (especially, a shallow trench) should be excavated, representing a reasonable buffer a minimum of 10 cm around the maximum extent of the known skeletal remains, with attention to counter-intuitive discoveries or unanticipated finds relating to this or other remains. The dirt from the perimeter balk should be bucketed, distinctly labeled, and screened for cultural materials.

*(D) Exposure Methods.* Excavation should then proceed inward from the walls of the balk as well as downward from the surface of the exposure. Loose dirt should be scooped out and





## HABEMATOLEL POMO CULTURAL RESOURCES

*brushed off into a dustpan or other collective device. Considerable care should be given to ensure that human remains are not further impacted by the process of excavation.*

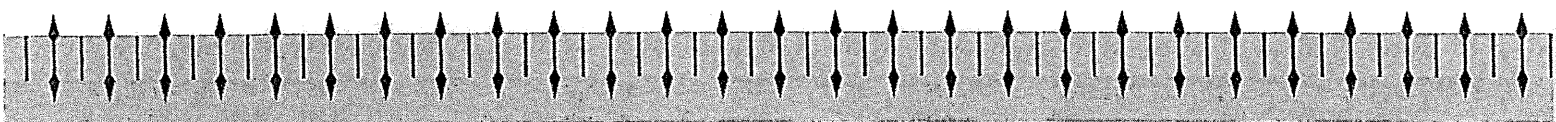
(E) Provenience. *Buckets, collection bags, notes, and tags should be fully labeled per provenience, and a distinction should be made between samples collected from: (1) **Perimeter Balk** (described above), (2) **Exposure** (dirt removed in exposing the exterior/burial plan and associations, and (3) **Matrix** (dirt from the interstices between bones or associations). Thus, each burial may have three bags, "Burial 1 Perimeter Balk," "Burial 1 Exposure Balk," "Burial 1 Matrix."*

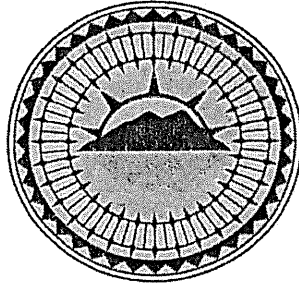
*Please note the provisions below with respect to handling and conveyance of records and samples.*

(F) Records. *The following records should be compiled in the field: (1) a detailed scale drawing of the burial, including the full provenience for all human remains, associated artifacts, and the configuration of all associated phenomena such as burial pits, evidence for pre-interment grave pit burning, soil variability, and intrusive disturbance, (2) complete a formal burial record using the consultants proprietary form or other standard form providing information on site #, unit or other proveniences, level depth, depth and location of the burial from a fixed datum, workers, date(s), artifact list, skeletal inventory, and other pertinent observations, (3) crew chief and worker field notes that may supplement or supercede information contained in the burial recording form, and (4) photographs, including either or standard photography or high-quality (400-500 DPI or 10 MP recommended) digital imaging.*

(G) Stipulations for Acquisition and Use of Imagery. *Photographs and images may be used only for showing location or configuration of questionable formation or for the position of the skeleton. They are not to be duplicated for publication unless a written release is obtained from the Tribe.*

(H) Association. *Association between the remains and other cultural materials should be determined in the field in consultation with an authorized Tribal representative and may be amended per laboratory findings. Records of provenience and sample labels should be adequate to determine association or degree of likelihood of association of human remains and other cultural materials.*





## HABEMATOLEL POMO CULTURAL RESOURCES

(I) Samples. For each burial, all *Perimeter Bulk* soil is to be 1/8"-screened. All *Exposure* soil is to be 1/8"-screened, and a minimum of one 5-gallon bucket of excavated but unscreened *Exposure* soil is to be collected, placed in a plastic garbage bag in the bucket. All *Matrix* soil is to be carefully excavated, screened as appropriate, and then collected in plastic bags placed in 5-gallon buckets.

(J) Human remains are not to be cleaned in the field.

(K) Blessings. Prior to any physical action related to human remains, a designated tribal representative will conduct prayers and blessings over the remains. The archaeological consultant will be responsible for ensuring that individuals and tools involved in the action are available for traditional blessings and prayers, as necessary.

### **IV. Lab Procedures**

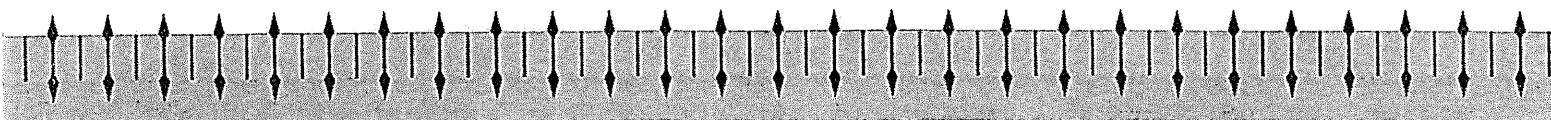
No laboratory studies are permitted without consultation with the Tribe. Lab methods are determined on a project-specific basis in consultation with Habematolel Pomo of Upper Lake representatives. The following procedures are recommended:

(A) Responsibility. The primary archaeological consultant will be responsible for ensuring that all lab procedures follow stipulations made by the Tribe.

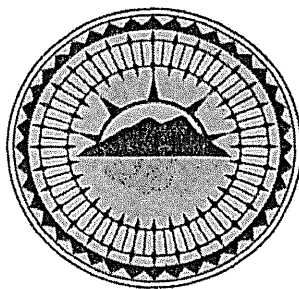
(B) Blessings. Prior to any laboratory activities related to the remains, a designated Tribal representative will conduct prayers and blessings over the remains. The archaeological consultant will be responsible for ensuring that individuals and tools involved in the action are available for traditional blessings and prayers, as necessary.

(C) Physical Proximity of Associations. To the extent possible, all remains, associations, samples, and original records are to be kept together throughout the laboratory process. In particular, *Matrix* dirt is to be kept in buckets and will accompany the remains to the lab. The primary archaeological consultant will be responsible for copying all field records and images and ensuring that the original notes and records accompany the remains throughout the process.

(E) Additional Lab Finds. Laboratory study shall make every effort to identify unanticipated finds or materials missed in the field, such as objects encased in dirt or human remains misidentified as faunal remains in the field. In the event of discovery of additional remains, materials, and other associations the tribal representatives are to be contacted immediately.







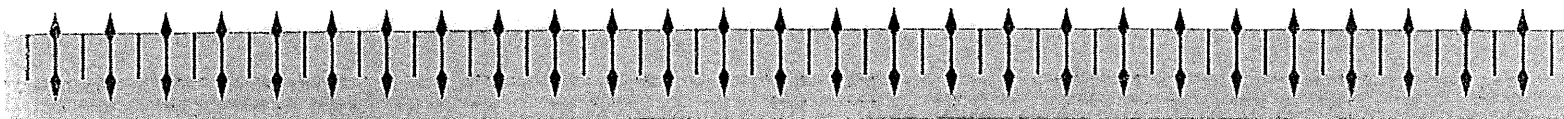
## HABEMATOLEL POMO CULTURAL RESOURCES

### **V. Re-internment without Further Disturbance**

No laboratory studies are permitted on human remains and funerary objects. The preferred treatment preference for exhumed Native American human remains is reburial in an area not subject to further disturbance. Any objects associated with remains will be reinterred with the remains. The Tribe shall not bear the cost of re-internment but shall be given full access to rebury the remains in a culturally sensitive manner.

### **VI. Curation of Recovered Materials**

Should all, or a sample, of any archaeological materials collected during the data recovery activities – with the exception of Human Remains – need to be curated, an inventory and location information of the curation facility shall be given to the Tribe for its records.



# EXHIBIT G

City of Clearlake Planning Commission  
Hearing held on 12/13/2022

Item #2: 18<sup>th</sup> Street Consideration of CUP  
Starts at 32:01/ 1:24:07

- Com. McCarrick- 38:32/ 1:24:07

- “My question is, and it might just be semantics, it might just be typing, but in the in the CEQA document itself, section 18, it says tribal cultural resources as opposed to the section that is just cultural resources, but in the conditions of approval, it just says cultural resources, so I just want to make sure that attention is brought to the tribal, ‘cause they are two different things, of the tribal cultural resources in there. So it might just be like a slash tribal. It might just be like an edit for that. I noticed that in the conditions of approval when other ones actually have said tribal, this one didn’t. So I was just curious about that.

- Staff (Sounds like Mark Roberts): 39:11/1:24:07

“That can be corrected by just doing cultural slash tribal... because typically when we do conditions of approval or mitigation measures, it’s the same mitigation measures or conditions of that would go for cultural or tribal, so that’s why we just usually do cultural slash tribal in the conditions of approval.”

- Com. McCarrick- “Ok, I appreciate that, because I know that in some of our other conversations, at the Planning Commission, there has been a conscious conversation about them being different, and they are different in CEQA.

- Then, my other question was, I don’t know if I missed it in here, if there has been a tribal consultation, and also if there has any part of the environmental documentation said that the water district said that they could meet the needs of this project with water conservation measures, but I don’t know if, from the applicant, I did not see any specific water conservation measures, I was just checking, curious about that.”

- Staff: So for the... could you repeat your first question?

- Com. McCarrick: “Sure, I noticed there was something about AB 52 in there, and I was just wondering if a consultation had happened. And the second one I was just wondering about water conservation measures from the applicant.”

- I noticed there was something about AB 52, in there, and I was wondering if an AB 52 consultation had happened.

40:35/1:24:07 Staff, Mr. Mark Roberts = “So when the initial study was sent out for the 30 day review, it was sent to all agencies, and we didn’t receive any comments or concerns from the local tribal organizations.”

And then for the Water District, in regards to the water conservation, that would be more for the Applicant coordinating with the local water district. But as part of their conditions they are going to have to meet all of their applicable requirements for connecting to the proper water district itself.

Com. McCarrick- the summary made it sound like they were going to go above and beyond, which is great, because hotels can use a descent amount of water, so if they had anything, or maybe one of the conditions of approval would be to state what those water conservation measures would be.

Staff: "So, the hotel is a use by right. So we need to remember keep with the ABC license is the CUP. Even though it was analyzed in the environmental document itself. I think we need to be careful about conditioning a use that is technically a use by right. When they hook up to the water, they are gonna have to meet all applicable requirements."

Com. McCarrick: "The only reason I bring it up is the Konocti Water District had said that they were going to take conservation measures. While it is a use by right, if it is dependent on the CEQA document and the MND, just making sure people stick to what they are saying."

Discussion ends at 42:27/1:32:07

## **EXHIBIT H**

Available To City Council And City Staff But  
Not Included Due To Confidentiality Concerns

## **EXHIBIT I**

Available To City Council And City Staff But  
Not Included Due To Confidentiality Concerns

# EXHIBIT J

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**From:** gwhite@sub-terraheritage.com <gwhite@sub-terraheritage.com>  
**Date:** Tuesday, October 13, 2020 at 12:47 PM  
**To:** Dino Beltran <dbeltran@koination.com>, KN2 <KN2@koination.com>  
**Subject:** Mullen spoils volume and content

Dino,

Here is a brief summary of the volume and content of the Mullen soils used by the contractor:

#### **Mullen Project**

Spoils from the newly-installed storm drain trench on Mullen Avenue between Palmer Avenue and Lakeshore Drive, City of Clearlake, Lake County, California, were deposited in two locations, in a temporary storage yard located on Pearl Avenue near Alvita and in a City storage yard at the former Pearce Airport site off Old Hwy 53.

The spoils are primarily composed of disturbed deposits and mixed fill but they contain extensive archaeological materials derived from prehistoric site Ca-Lak-39. While the spoils are by definition disturbed deposits, they contain a high density and diversity of archaeological materials including chipped stone projectile points and other hand-tools, obsidian trade blanks, ground stone tools, and shell and animal bone food refuse. Fragmentary human remains are also likely to be contained in the deposits.

#### **Volume of Spoils**

Project spoils transported from Mullen totaled approximately 118 cubic yards and were placed at two locations: (1) the Pearce airport yard and (2) Pearl near Alvita, as follows:

Pearce Yard. On 08-24 through 08-26 trenching spoils were excavated from Lakeshore to Emory, a section of trench measuring 265 feet long. The initial 175 feet of this trench (the south end) was dug on 08-24 through 08-25 and was 3.0 feet wide and 2.33 feet deep, generating approximately 45.3 cubic yards of spoils. The next 90 feet of the trench (the north end) was dug on 08-26 and was 2.0 feet wide and 2.33 feet deep, generating 15.5 cubic yards of material. On 08-27 through 08-28 trenching spoils were excavated from Emory to Palmer, a section of trench measuring 214.0 feet long and was 2.0 feet wide and 2.33 feet deep for a total of 37.0 cubic yards. A DI vault measuring 16.5 feet long, 10.5 feet wide, and up to 5.5 feet was also dug for an estimated total of volume of 20.0 cubic yards. Thus, the Lakeshore-to-Palmer trench produced 117.6 cubic yards of spoils, all transported to the old Pearce yard.

Pearl Yard. The Pearl location contains vacuum spoils only which combined occupy an estimated 0.5 cubic yards.

Greg  
530-513-1943



**EXHIBIT K**

Available To City Council And City Staff But  
Not Included Due To Confidentiality Concerns

**EXHIBIT L**

## California Department of Transportation

## DISTRICT 1

P.O. BOX 3700 | EUREKA, CA 95502-3700  
(707) 445-6600 | FAX (707) 441-6314 TTY 711  
[www.dot.ca.gov](http://www.dot.ca.gov)



November 30, 2022

1-LAK-53-1.99

Airport Hotel & 18<sup>th</sup> Ave Extension  
SCH#2022100562

Mr. Mark Roberts  
City of Clearlake  
14050 Olympic Drive  
Clearlake, CA 95422

Dear Mr. Roberts:

Thank you for giving Caltrans the opportunity to review and comment on the Mitigated Negative Declaration for the proposed Airport Hotel and 18th Avenue Extension Project, which would include development of a four-story, 75-room hotel, as well as a one-story meeting hall. In addition, the proposed project would construct an extension of 18th Avenue that would connect State Route (SR) 53 to Old Highway 53. The project is located west of SR 53, at the former Pearce Airport, and is bound by the unimproved public rights of way for Spruce Ave, Armijo Ave, Victor Street and Warner Street/18th Ave. We have the following comments:

Page 21 of 74 in the Mitigated Negative Declaration shows a widening of the eastbound approach to 18<sup>th</sup> Ave at its intersection with SR 53. As shown, the proposed improvements would make California Department of Transportation (Caltrans) a responsible agency under CEQA. An encroachment permit from Caltrans will be required to construct the proposed improvements.

In order to adequately evaluate the proposed intersection improvements at 18th Ave and SR 53, a delineation of the State right-of-way (R/W) will need to be added to pages 16 through 23 (of 74) of the Mitigated Negative Declaration and "Figure 3 - Proposed Roadway Improvements," found in Attachment C -Transportation Impact Study. For the applicant's benefit, the enclosed maps (labeled "LAK 53 RoW Map Set for the Clearlake Hotel.pdf" and "LAK-53\_ROS Monumentation\_88-RS-12-24.pdf") are offered for surveying and delineating State R/W. The maps may require the retention of a licensed land surveyor due to known errors on the maps and the need to consult the deeds. For further assistance with mapping State R/W, please contact Caltrans Chief Right of Way Engineer, Lorien Sanchez, at (707) 497-7693, or by email at: <lorien.sanchez@dot.ca.gov>.

Mr. Mark Roberts, Senior Planner  
11/30/2022  
Page 2

The location of State R/W limits are important elements of the permit approval process. Intersection design elements within State R/W are required to meet State Design Standards. Any deviation from State standards will require an approved Design Standard Decision Document (DSDD). Any permit application requiring a DSDD cannot be processed as a standard encroachment permit but must follow the Caltrans Quality Management Assessment Process (QMAP). Additional information on the QMAP process can be found in Appendix I of the Caltrans Project Development Procedures Manual (PDPM), available online: < <https://dot.ca.gov/-/media/dot-media/programs/design/documents/pdpm-appendixi-a11y.pdf>>. We highly recommend avoiding the QMAP process in order to save both time and expense for the Caltrans permitting process.

A revised set of design plans with dimensions labeled will need to be reviewed and approved by Caltrans prior to submitting an application for an encroachment permit.

We will also need to check the truck turn radii for the westbound direction.

A protected left turn warrant should be performed to verify that protected left turns are not required.

We recommend that sidewalk and bike lanes continue on both sides of 18th Avenue to the intersection of Highway 53. The four-foot bike lanes on 18th Ave will need to be revised to meet State standards within State R/W.

We will need the width dimensions for the westbound right turn lane on 18th Ave. It appears the bike lane ends in the right turn lane. The dimensions will allow us to determine whether westbound bicyclists can be accommodated in a separate lane through the intersection.

The new left turn lanes may require changes to the signal hardware, to allow for a protected left turn phase unless the existing timing be used such as a permissive left on a green ball. Future increases in left-turning traffic with the build out of the commercial center/airport redevelopment may result in significant impacts to signal operations, potentially requiring modification to signal geometrics and/or timing. We request more information about the build out plans for the Airport to ensure that the signal continues to operate safely and effectively.

Archaeological studies will be required if there are constructive changes to the R/W in the vicinity of 18th Street. This area is sensitive for archaeological resources. Current records indicate that resources are present. In the event that construction activities could be limited to previously disturbed areas, risk will be significantly reduced. Native

Mr. Mark Roberts, Senior Planner  
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American Consultation will be key to successful project implementation. The area is of elevated concern to local Tribes.

Any work within Caltrans right of way will require an encroachment permit from Caltrans. To streamline the process, we require the applicant arrange and participate in a pre-submittal meeting with the Caltrans encroachment permits staff in Ukiah, prior to submitting a permit application. For more information or to request an encroachment permit application, please contact the Ukiah permits office at 707-463-4743, and refer to the Caltrans website: <<https://dot.ca.gov/programs/traffic-operations/ep>>.

Please contact me with questions or for further assistance with the comments provided at (707) 684-6879 or by email at: <[jesse.robertson@dot.ca.gov](mailto:jesse.robertson@dot.ca.gov)>. Sincerely,

*Jesse G. Robertson*

Jesse Robertson  
Transportation Planning  
Caltrans District 1

Enclosed: LAK 53 RoW Map Set for the Clearlake Hotel.pdf  
LAK-53\_ROS Monumentation\_88-RS-12-24.pdf

c: State Clearinghouse  
Heidi Quintrell, Chief, Caltrans District 1 Encroachment Permits

**EXHIBIT M**

ROB BONTA  
Attorney General

State of California  
DEPARTMENT OF JUSTICE



1300 I STREET, SUITE 125  
P.O. BOX 944255  
SACRAMENTO, CA 94244-2550

Public: (916) 445-9555  
Telephone: (916) 210-7808  
Facsimile: (916) 327-2319  
E-Mail: Robert.Swanson@doj.ca.gov  
Yuting.Chi@doj.ca.gov

July 11, 2022

Mr. Russell Brady  
Riverside County Planning Department  
4080 Lemon Street, 12th Floor  
Riverside, CA 92501

RE: Draft Environmental Impact Report for the Stoneridge Commerce Center Project (SCH #2020040325)

Dear Mr. Brady:

Thank you for the opportunity to provide comments on Riverside County's Draft Environmental Impact Report (DEIR) for the Stoneridge Commerce Center (the Project). The Project would site over 9.5 million square feet of total warehouse space just east of the City of Perris on and adjacent to several Native American tribes' Traditional Cultural Landscape. Because the Project is located more than six miles away from the nearest highway via the preferred truck route, the Project would result in thousands of daily truck trips passing homes and a middle school in Perris. The County should consider other truck routing options to minimize the Project's impacts to sensitive receptors. The DEIR also does not properly analyze the Project's impacts to sensitive receptors, as it commits several material errors in the air quality analysis, and fails to disclose and sufficiently analyze significant traffic noise impacts. Moreover, the DEIR fails to adequately analyze the Project's cumulative impacts on tribal cultural resources, or to adequately incorporate the information provided by impacted tribes during the Assembly Bill (AB) 52 consultation process. Finally, the DEIR fails to adopt all feasible mitigation for the Project's significant impacts. The County should revise the DEIR to comply with the California Environmental Quality Act (CEQA) and minimize the Project's environmental impacts.<sup>1</sup>

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<sup>1</sup> The Attorney General respectfully submits these comments pursuant to his independent power and duty to protect the environment and natural resources of the State. (See Cal. Const., art. V, § 13; Gov. Code, §§ 12511, 12600-12612; *D'Amico v. Bd. of Medical Examiners* (1974) 11 Cal.3d 1, 14-15.)

**I. THE PROJECT WOULD SITE 9.5 MILLION SQUARE FEET OF NEW WAREHOUSE SPACE FAR FROM TRANSPORTATION CORRIDORS, CAUSING TRUCKS TO IMPACT EXISTING RESIDENTIAL COMMUNITIES.**

The Project would construct one of the largest single warehouse complexes in California: over 9.5 million square feet of total warehouse space<sup>2</sup> and over 120,000 square feet of new retail commercial space on 582.6 acres.<sup>3</sup> The DEIR projects that the Project will generate 3,916 daily heavy-duty truck trips—an average of one truck every 22 seconds over the expected 24/7 operation of the warehouse complex.<sup>4</sup> The DEIR analyzes two different truck routing plans, each of which would involve a lengthy path to the highway past homes and other sensitive receptors. The Primary Truck Route plan would direct 98 percent of the Project's truck traffic along a six-mile route to the highway via Ramona Expressway, which borders Lakeview Middle School and a substantial residential community in Perris.<sup>5</sup> The Southern Truck Route plan would still direct 60 percent of trucks (2,350 trucks daily) along Ramona Expressway, but 38 percent (1,488 trucks daily) would take a four-mile path via Nuevo Road, passing a planned residential development called McCanna Hills, two smaller residential communities, a church, and a public park.<sup>6</sup> Annotated satellite images showing the truck routes and Project vicinity are attached to this letter as Exhibits A and B.

The Project would primarily impact three communities in Perris: the community bordering Ramona Expressway, the communities along the Southern Truck Route, and the planned McCanna Hills community. Ramona Expressway forms the northern border of a large residential community in Perris. Homes back up to Ramona Expressway along the entire 1.5-mile stretch from Rider Street to Avalon Parkway. The homes are slightly recessed into the ground, such that Ramona Expressway is approximately level with the homes' second stories. A short wall separates the homes from the road, but the wall does not shield second story windows

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<sup>2</sup> The warehouse space consists of 8,461,530 square feet of light industrial uses and 1,069,398 square feet of business park uses. DEIR at 3-4.

<sup>3</sup> *Id.* at 3-1, 3-4. The DEIR analyzes two slightly different land use plans for the site, depending on whether the Riverside County Transportation Commission (RCTC) constructs the Mid County Parkway (MCP) through the northwestern portion of the project site. The MCP would be a 16-mile transportation corridor that is designed to relieve east-west traffic congestion between the San Jacinto and Perris areas. The RCTC approved the final EIR for the MCP in 2015. Construction began in summer 2020 on one interchange that was contemplated for the MCP (Interstate 215/Placentia Avenue), which is planned for opening in August 2022. However, the RCTC has not secured funding for segments of the MCP that would traverse the Project area, so it is possible that the RCTC may not ultimately construct the MCP through the Project site. Several Native American tribes provided extensive reports under the AB 52 consultation process for the MCP regarding its potential impacts to the Tribal Cultural Landscape, and provided parts or all of those reports to the County during consultation on the Stoneridge Project.

<sup>4</sup> DEIR at 3-28.

<sup>5</sup> *Id.* at 3-28, 3-29 Fig. 3-12.

<sup>6</sup> *Id.* at 3-28, 3-30 Fig. 3-13.



from traffic. Lakeside Middle School also backs to Ramona Expressway, with recreational facilities, including a baseball field and running track, adjacent to the road. Other sensitive receptors within 1,000 feet of the Primary Truck Route include Sierra Vista Elementary School, Avalon Elementary School, Frank Eaton Memorial Park, and hundreds of homes. According to CalEnviroScreen 4.0, CalEPA's screening tool that ranks each census tract in the state for pollution and vulnerability,<sup>7</sup> while this community is not currently heavily polluted besides the region's extreme ozone pollution, it scores highly (73rd percentile) on population characteristics indicating greater vulnerability to pollution. For example, the community has greater rates of cardiovascular disease than 91 percent of other census tracts in California, and it has higher than average rates of asthma and newborns with low birth weight. The community also ranks in the upper half of all but one of CalEnviroScreen's socioeconomic vulnerability factors.<sup>8</sup> About 81 percent of students enrolled at Lakeside Middle School are eligible for the Free or Reduced-Price lunch programs, meaning that these students come from families whose income are below CalEnviroScreen's poverty threshold, and 95 percent of the student population identify as persons of color.<sup>9</sup> Among all residents of this community, the majority (64 percent) identified as Hispanic, and 86 percent of residents identified as a race/ethnicity other than white.

The communities along the Southern Truck Route include sensitive receptors on Nuevo Road, Dunlap Drive, and San Jacinto Avenue. Sensitive receptors on Nuevo Road include a handful of rural-style homes and a small suburban development at the intersection of Nuevo Road and Dunlap Drive. More suburban homes border Dunlap Drive, along with St. James the Less Catholic Church. Near Interstate 215, several suburban homes and Bob Long Park are adjacent to East San Jacinto Avenue. Because these communities span several census tracts, precise data on their pollution burden and demographic vulnerability to pollution do not exist, but the CalEnviroScreen data for these census tracts are relatively similar to one another. All suffer from significant ozone pollution and above average amounts of other pollutants—for example, pesticides in some census tracts, diesel particulate matter and traffic in others. Like the community bordering Ramona Expressway, the communities along the Southern Truck Route have high rates of cardiovascular disease, asthma, and low birth weight babies, and they rank in the upper half of all CalEnviroScreen measures of socioeconomic vulnerability except unemployment. These communities have a similar racial/ethnic makeup to the community bordering Ramona Expressway, with a majority of residents identifying as Hispanic, and the overwhelming majority identifying as non-white.

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<sup>7</sup> See Office of Environmental Health Hazard Assessment, CalEnviroScreen 4.0 <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-40> (last visited July 9, 2022).

<sup>8</sup> The one CalEnviroScreen socioeconomic vulnerability factor in which this community scores better than average is unemployment, indicating that residents already possess sufficient job opportunities.

<sup>9</sup> Lakeside Middle, National Center for Education Statistics (2021-2022), [https://nces.ed.gov/ccd/schoolsearch/school\\_detail.asp?Search=1&DistrictID=0691135&ID=069113511243](https://nces.ed.gov/ccd/schoolsearch/school_detail.asp?Search=1&DistrictID=0691135&ID=069113511243) (last visited July 9, 2022).

Finally, the McCanna Hills Specific Plan is an approved but unconstructed development that would be sited west of the Project site and south of the community bordering Ramona Expressway (see Exhibit C). The McCanna Hills development shares its eastern edge with the western border of the Project site. Active permits exist to build on several planning areas, including two that would construct new housing north of Antelope Road and Nuevo Road, adjacent to the Project site and along the first section of the Southern Truck Route.<sup>10</sup> If those units are ultimately constructed and occupied, the Project would impact a substantial number of additional sensitive receptors. The Project would also directly affect several other planning areas in the McCanna Hills Specific Plan without active permits, including a third planning area along Nuevo Road, designated open space bordering the Project, and higher-density residential and open space along Ramona Expressway.<sup>11</sup>

**II. THE DEIR CONCLUDES THAT THE PROJECT WOULD HAVE SIGNIFICANT AND UNAVOIDABLE IMPACTS TO AIR QUALITY, NOISE, TRANSPORTATION, AGRICULTURE AND FORESTRY, AND AESTHETICS, AS WELL AS IMPACTS TO THE VIEWSHED OF TRIBAL TRADITIONAL CULTURAL LANDSCAPE.**

The DEIR concludes that the Project would have significant and unavoidable impacts in five areas: air quality, noise, transportation, agriculture and forestry, and aesthetics. Regarding air quality, the DEIR calculated that the Project's daily operational air emissions would include 1,137 pounds of nitrogen oxides (NO<sub>x</sub>), 2,004 pounds of carbon monoxide (CO), and 160 pounds of volatile organic compounds (VOCs).<sup>12</sup> These emissions drastically exceed the applicable CEQA significance thresholds by factors of 21 (NO<sub>x</sub>), 4 (CO), and 3 (VOCs) in an air basin already in "extreme" nonattainment for several ozone standards and "serious" nonattainment for multiple fine particulate matter standards.<sup>13</sup> As to noise, the DEIR discloses significant noise and vibration impacts during construction—both on-site and off-site at Lakeside Middle School—and significant traffic noise impacts on Nuevo Road.<sup>14</sup> On transportation, because the Project site is isolated from existing transportation corridors, the DEIR finds that the Project would exceed the County's average vehicle miles traveled (VMT) per employee threshold by 26.22% and that the Project's retail uses would increase total VMT in the County.<sup>15</sup> On agriculture, the DEIR finds that the Project would convert 506.7 acres of important farmland, including 297.8 acres designated by the state as Prime Farmland, to non-agricultural uses.<sup>16</sup> And as to aesthetics, the DEIR notes that the existing character of the Project site is rural and

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<sup>10</sup> See Exhibit C, Planning Areas 46 and 47.

<sup>11</sup> See, e.g., Exhibit C, Planning Areas 28A, 28B, 28C, 29, 44, 45, and 48.

<sup>12</sup> DEIR at 4.3-29 Table 4.3-9.

<sup>13</sup> *Ibid.*

<sup>14</sup> *Id.* at 4.15-39 to -40.

<sup>15</sup> *Id.* at 4.18-22 to -23.

<sup>16</sup> *Id.* at 4.2-9.

agricultural, and that the Project's industrial land uses would substantially alter the area's character and views.<sup>17</sup>

Furthermore, the DEIR concludes that there would not be significant and unavoidable impacts to tribal cultural resources because mitigation measures would reduce the impacts of the Project on tribal cultural resources to below a level of significance.<sup>18</sup> The DEIR acknowledges that there would be impacts to the viewshed of the area, in a manner that would obstruct the San Jacinto River, the villages of Páyve and Páavo, and Mystic Lake—places of historical and cultural significance to several tribes that are designated as part of a Tribal Cultural Landscape<sup>19</sup>—defined as a tribal cultural resource because it is a landscape with cultural value to a California Native American tribe that is included or eligible for inclusion in the California Register of Historical Resources.<sup>20</sup> But the DEIR concludes that because there is currently very little development in the area, the development associated with the Project would not significantly impact the viewshed of the Tribal Cultural Landscape.<sup>21</sup> However, notably, the DEIR's conclusions on Project impacts to the aesthetics of the area—that the Project's industrial land uses would substantially alter the area's character and views—is in direct conflict with its conclusion that the viewshed of the Tribal Cultural Landscape would not be significantly and unavoidably impacted.<sup>22</sup>

### **III. THE DEIR FAILS TO APPROPRIATELY ANALYZE AND DISCLOSE ALL SIGNIFICANT ENVIRONMENTAL IMPACTS.**

The purpose of CEQA is to ensure that a lead agency fully evaluates, discloses, and, whenever feasible, mitigates a project's significant environmental effects.<sup>23</sup> An EIR serves as an "informational document" that informs the public and decisionmakers of the significant environmental effects of a project and ways in which those effects can be minimized.<sup>24</sup> Accordingly, an EIR must clearly set forth all significant effects of a project on the environment.<sup>25</sup> Here, the DEIR fails to properly analyze and/or disclose the significant air quality, noise, transportation, and tribal cultural resources impacts of the Project.

#### **A. The DEIR Fails to Properly Analyze and Disclose Significant Air Quality Impacts.**

As noted above, the DEIR finds that Project operations would cause significant and unavoidable criteria pollutant emissions. The DEIR's health risk assessment (HRA) also

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<sup>17</sup> *Id.* at 4.1-15.

<sup>18</sup> *Id.* at 4.19-8.

<sup>19</sup> *Id.* at 4.19-6.

<sup>20</sup> Pub. Resources Code, § 21074, subd. (a)(1)(A).

<sup>21</sup> DEIR at 4.19-6.

<sup>22</sup> *Id.* at 4.1-15.

<sup>23</sup> Pub. Resources Code, §§ 21000-21002.1.

<sup>24</sup> CEQA Guidelines, § 15121, subd. (a).

<sup>25</sup> Pub. Resources Code, § 21100, subd. (b)(1); CEQA Guidelines, § 15126.2, subd. (a).

concludes that the Project's diesel particulate matter (DPM) emissions would cause 9.81 cancer cases per million people, just under the significance threshold of 10 cases per million. The California Air Resources Board's (CARB) comment letter, dated May 26, 2022, identifies several flaws in the HRA and an important omission from the criteria pollutant emissions analysis. When corrected, the HRA will likely find significant cancer risk from the Project's operational DPM emissions. The County must revise the DEIR to accurately reflect the Project's air quality impacts and recirculate it for public review.

The HRA of cancer risk from operational DPM emissions suffers from at least four flaws. First, it assumes an improperly low daily breathing rate for individuals aged 16-70. The DEIR uses a daily breathing rate for individuals aged 16-70 of 209 liters per kilogram per day.<sup>26</sup> Guidance from the California Office of Environmental Health Hazard Assessment (OEHHA) recommends using a daily breathing rate of 290 liters per kilogram per day for this demographic—nearly 40 percent higher than the DEIR assumed.<sup>27</sup> The DEIR does not explain why it departs from OEHHA guidance. (*See Golden Door Properties, LLC v. Cnty. of San Diego* (2018) 27 Cal. App. 5th 892, 905 (requiring substantial evidence to support methodology for CEQA impact analysis).) Because daily breathing rate is a critical component of an individual's estimated DPM exposure, recalculation of the cancer risk using the correct daily breathing rate will reveal substantially higher cancer risk than the DEIR previously disclosed.

Second, the HRA appears to omit emissions from off-site TRUs. While the HRA includes emissions from TRUs located at the Project site, it seemingly does not account for TRU emissions that occur along roadways near the Project.<sup>28</sup> These emissions will increase nearby sensitive receptors' overall DPM exposure, and thus must be included to accurately estimate cancer risk from Project operations.

Third, the HRA underestimates on-site TRU emissions. The HRA assumes that TRUs will idle on-site for fifteen minutes.<sup>29</sup> However, data collected by CARB demonstrate that TRUs spend an average of 3.3 hours at a facility.<sup>30</sup> For diesel-powered TRUs—which make up the vast

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<sup>26</sup> See, e.g., DEIR, Appendix B1 at .pdf pg. 483.

<sup>27</sup> OEHHA Guidance at 5-23 to -24 (recommendation to use 95th percentile daily breathing rates), 5-25 Table 5.6 (95th percentile breathing rate for 16<70 years of 290 L/kg-day).

<sup>28</sup> See, e.g., DEIR, Appendix B1 at .pdf pg. 482 (including on-site TRU emissions but not off-site TRU emissions).

<sup>29</sup> See, e.g., *id.*, Appendix B1 at .pdf pg. 482.

<sup>30</sup> CARB, Staff Report, *Proposed Amendments to the Airborne Toxic Control Measure for In-Use Diesel-Fueled Transport Refrigeration Units (TRU) and TRU Generator Sets, and Facilities Where TRUs Operate*, Appendix F ("Applicable Facility Determination Methodology"), at 18 (citing CARB, *2011 Proposed Amendments to the Airborne Toxic Control Measure for In-Use Diesel-Fueled Transport Refrigeration Units (TRU) and TRU Generator Sets, and Facilities Where TRUs Operate* (August 31, 2011); CARB, Cold Storage Food/Distribution Questionnaire (2018)).

majority of TRUs currently in operation<sup>31</sup>—the HRA should assume on-site idling time is equivalent to total facility visit time.<sup>32</sup> The HRA should therefore consider on-site TRU emissions from 3.3 hours of idling per truck visit. Alternatively, the DEIR should adopt mitigation measures, along with robust enforcement mechanisms, limiting on-site TRU idling to fifteen minutes.

Fourth, the HRA does not substantiate its assumption that the Project would receive 630 daily visits by trucks with TRUs under the Primary Land Use Plan.<sup>33</sup> The DEIR must support this assumption with substantial evidence. Pub. Resources Code § 21168.5. As diesel-powered TRUs emit considerable amounts of DPM, the number of truck trips with TRUs strongly influences projected DPM emissions and thus the overall estimated cancer risk.

Finally, the DEIR's calculation of operational criteria pollutant emissions omits emissions from TRUs. The DEIR estimates criteria pollutant emissions using CalEEMod. However, as CARB's comment explains, CalEEMod does not account for air pollutant emissions from TRUs.<sup>34</sup> Accordingly, the DEIR underestimates the Project's criteria pollutant emissions. The DEIR must separately model those emissions and add them to the Project's other operational emissions to accurately assess the Project's total criteria pollutant emissions from operation.

**B. The DEIR Fails to Properly Analyze and Disclose Significant Noise Impacts.**

The DEIR's noise analysis suffers from two flaws. First, the DEIR fails to disclose significant traffic noise impacts along Ramona Expressway. The DEIR states that the Project would have four significant noise impacts: (1) significant construction noise impacts at Lakeside Middle School from construction of a water main and tanks adjacent to the school, (2) significant construction vibration impacts at Lakeside Middle School, Sierra Vista Elementary School, and nearby residences from the water infrastructure construction; (3) significant on-site construction vibration impacts from blasting; and (4) significant increases in traffic noise along Nuevo Road between the Project site and Dunlap Drive.<sup>35</sup> However, the DEIR's analysis identifies a fifth significant noise impact: operational traffic noise increases on Ramona Expressway behind Lakeside Middle School and residences. Specifically, the DEIR finds that the Project would

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<sup>31</sup> According to data reported in the CARB Equipment Registry, approximately 15 percent of trailer TRUs are equipped with electric-standby capability.

<sup>32</sup> CARB, Staff Report, *Proposed Amendments to the Airborne Toxic Control Measure for In-Use Diesel-Fueled Transport Refrigeration Units (TRU) and TRU Generator Sets, and Facilities Where TRUs Operate*, Appendix I ("Health Analyses: Transport Refrigeration Units") at 39. Note that CARB's HRA assumes that total loading and unloading time is 4 hours rather than 3.3 hours, which would be a less conservative assumption in the context of the Project's HRA.

<sup>33</sup> See, e.g., DEIR, Appendix B1 at .pdf pg. 482.

<sup>34</sup> See, e.g., *id.*, Appendix B1 at .pdf pg. 104 (omitting any reference to calculating emissions from TRUs).

<sup>35</sup> *Id.* at 4.15-39 to -40.

increase traffic noise under year 2030 conditions by 2.2 dBA CNEL<sup>36</sup> (from 66.9 to 69.1) on Ramona Expressway south of Rider Street and by 1.9 dBA CNEL (from 67.0 to 68.9) on Ramona Expressway between Bradley Road and Evans Road.<sup>37</sup> As baseline traffic noise exceeds the County's 65 dBA CNEL standard for acceptable noise at a sensitive land use, the DEIR uses a significance threshold of a 1.5 dBA CNEL increase.<sup>38</sup> Thus, projected increases of 2.2 dBA CNEL and 1.9 dBA CNEL are significant. While the DEIR identifies these impacts as significant at Table 4.13-13, it omits these significant impacts from the narrative portions of the DEIR, including its discussion of significant impacts in the executive summary and summary portions of the noise section.<sup>39</sup> The DEIR also does not consider any mitigation for these significant impacts. The DEIR's failure to disclose these significant impacts and consider all feasible mitigation are CEQA violations.<sup>40</sup> Particularly as these significant noise impacts would affect sensitive receptors—students and teachers at Lakeside Middle School and numerous Perris residents—the County must revise the DEIR to fully disclose these impacts and consider all feasible mitigation measures, including routing the nearly 4,000 daily truck trips away from this community.

Second, the DEIR's noise analysis is also insufficient. The DEIR uses 24-hour average noise levels as the sole indicator of a significant operational traffic noise impact. However, the DEIR reports that a diesel truck traveling 50 mph produces between 80 and 90 dBA of noise at 50 feet away.<sup>41</sup> The routes used by trucks visiting the Project would take trucks within 50 feet of dozens of sensitive receptors, particularly the homes bordering Ramona Expressway, which under the Primary Truck Route would be passed by a diesel truck an average of once every 23

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<sup>36</sup> The community noise equivalent level (CNEL) weights 24-hour average noise levels to account for additional noise sensitivity in evening and night hours. *See id.* at 4.13-4.

<sup>37</sup> *Id.* at 4.13-43 Table 4-13.13. Table 4-13.13 also includes a line purporting to estimate the increase in traffic noise on Ramona Expressway between Rider Street and Bradley Road, but the corresponding data are not plausible. While the DEIR projects the ambient baseline noise levels along the surrounding two sections of Ramona at 66.9 and 67.0 dBA CNEL, the DEIR lists ambient baseline noise on Ramona Expressway between Rider Street and Bradley Road as 58.7 dBA CNEL. Equally implausibly, the DEIR also estimates the traffic noise increase at this portion of Ramona Expressway to be 0.0 dBA CNEL, even though this portion of Ramona Expressway would host the same number of truck trips and nearly identical numbers of passenger car trips. The County should correct this apparent error in the DEIR.

<sup>38</sup> *Id.* at 4.13-20, 4.13-26.

<sup>39</sup> Curiously, the DEIR section analyzing land use impacts references a potential noise wall along Ramona Expressway to mitigate significant noise impacts (*id.* at 4.11-21), but neither the significant impact along Ramona nor a potential noise wall are mentioned anywhere in the relevant summary or noise sections of the DEIR.

<sup>40</sup> Pub. Resources Code, § 21100, subd. (b)(1), (b)(3).

<sup>41</sup> DEIR at 4.13-2 Fig. 4.13-1; *see also* Noise Sources and Their Effects, <https://www.chem.purdue.edu/chemsafety/Training/PPETrain/dblevels.htm> (last accessed July 6, 2022) (a diesel truck moving 40 miles per hour, 50 feet away, produces 84 decibels of sound).

seconds.<sup>42</sup> The DEIR projects that 24-hour average sound levels, including noise from passing trucks, would stay below 70 CNEL along Ramona Expressway, so the Project's heavy-duty trucks would therefore cause substantial noise spikes at sensitive receptors as they pass. Indeed, the DEIR notes that "[t]wo sound levels 10 dB apart differ in acoustic energy by a factor of 10,"<sup>43</sup> and that a "10-dBA change is subjectively heard as an approximate doubling in loudness and would almost certainly cause an adverse change in community response."<sup>44</sup>

The DEIR does not consider whether temporary noise spikes from diesel trucks would result in a significant noise impact. Especially pertinent is whether these noise spikes would cause health effects—such as sleep disturbance, stress, long-term hearing loss, or other impacts—yet the DEIR does not analyze these issues at all. Longstanding methodologies exist to study these impacts.<sup>45</sup> Instead, the DEIR leaves basic questions of interest to ordinary community members unanswered: for example, how loud is it at someone's home when the project's trucks pass, how often will they experience that noise, and will that noise affect their health? In light of evidence in the DEIR itself that the Project would subject sensitive receptors to large, temporary noise spikes, the DEIR's failure to consider whether significant noise impacts could result violates CEQA.<sup>46</sup>

**C. The DEIR's Analysis Regarding Truck Routes Makes a Major Error in Assumption, and Thus Should Consider Alternative Routes and Analyze Their Impacts.**

The DEIR proposes two alternative truck routes to accommodate the Project's nearly 4,000 expected daily truck trips, both of which would lead to thousands of daily truck trips passing residences and sensitive receptors.<sup>47</sup> The Primary Truck Route plan would direct 98 percent of the Project's truck traffic along a six-mile route to the highway via Ramona Expressway, which borders Lakeview Middle School and a large residential community in

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<sup>42</sup> Ninety-eight percent of 3,916 daily truck trips equals approximately 3,838 daily truck trips, or one truck trip every 22.5 seconds.

<sup>43</sup> *Id.* at 4.13-1.

<sup>44</sup> *Id.* at 4.13-5.

<sup>45</sup> See, e.g., *Berkeley Keep Jets Over the Bay Comm. v. Bd. of Port Comm'rs*, 91 Cal. App. 4th 1344, 1382 (2001) ("The probability of being repeatedly awakened by multiple single-event sounds can be calculated, given sufficient data."); United States Environmental Protection Agency, *Protective Noise Levels: Condensed Version of EPA Levels Document* (1978) at 12 (explaining the "typical use" of the A-weighted sound exposure level metric is "[t]o describe noise from a moving source such as an airplane, train, or truck"); Barbara Griefahn, *Noise Control During the Night: Proposals For Continuous and Intermittent Noise*, 20 *Acoustics Australia* 43 (1992) (noting that " $L_{eq}$  alone is not generally suitable for the prediction of sleep disturbance" and that nighttime traffic noise disrupts sleep and contributes to concrete health impacts, including cardiovascular disease).

<sup>46</sup> See, e.g., *Berkeley Keep Jets*, 91 Cal.App.4th at 1378.

<sup>47</sup> See Exhibits A & B.

Perris.<sup>48</sup> The Southern Truck Route plan would still direct 60 percent of trucks (2,350 trucks daily) along Ramona Expressway, but 38 percent (1,488 trucks daily) would take a four-mile path via Nuevo Road, passing the planned residential development of McCanna Hills, two smaller residential communities, a church, and a public park.<sup>49</sup>

In addition to inadequately analyzing the adverse impacts to air quality and noise that these truck routes pose for sensitive receptors, as described above, the DEIR has incorrectly assumed that trucks on the Primary Truck Route would use the Ramona Expressway to access Interstate 215 in the east. The City of Perris, through which that stretch of Expressway traverses, has removed that portion of the Expressway as a truck route. According to Perris, the City removed the “entire stretch of Ramona Expressway as a truck route” under the Perris Valley Commerce Center Specific Plan, which the City adopted in January 2012, thus removing an approximately 2.5-mile stretch of Primary Truck Route located within Perris’s city limits along the Ramona Expressway.<sup>50</sup> As such, in accordance with Perris’s restriction, 98 percent of the Project truck traffic based on the Primary Truck Route plan, or 60 percent of the Project truck traffic based on the Southern Truck Route plan, is not viable.

The DEIR should therefore reconsider the truck routes it proposes to service the Project site to avoid the Ramona Expressway. One alternative is to redirect most of the truck traffic to the south; but instead of using the path planned under the Southern Truck Route, a new southern route could be used to divert trucks away from the sensitive receptors along the Southern Truck Route (the planned residential development of McCanna Hills, the two smaller residential communities, the church, and the public park). The alternative southern route would require the expansion in capacity of existing roads and the construction of a new highway interchange. For example, Dawson Road, whose northern terminus does not intersect any existing roads, could be extended to intersect with Nuevo Road to divert truck traffic south along Dawson Road immediately after departing the Project site. Trucks could then head west on San Jacinto Avenue, south on Dunlap Drive, followed by west on Ellis Avenue. To accommodate truck traffic onto Interstate 215 without routing trucks past major sensitive receptors, the County could consider the construction of an Interstate 215 highway interchange at Ellis Avenue, subject, of course, to approvals from Riverside County Transportation Commission and other relevant municipalities and agencies.

The alternative route described above is just one of several possible alternatives that could divert trucks away from the Ramona Expressway and the sensitive receptors along the Primary and Southern Truck Routes. In considering these alternative routes, the DEIR should further analyze the impacts to other environmental resources.

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<sup>48</sup> DEIR at 3-28, 3-29 Fig. 3-12.

<sup>49</sup> *Id.* at 3-28, 3-30 Fig. 3-13.

<sup>50</sup> See City of Perris Comment Letter to Riverside County Planning Regarding Stoneridge Commerce Center DEIR (May 20, 2022) at 5.



**D. The DEIR Fails to Properly Analyze and Disclose Significant Impacts to Tribal Cultural Resources.**

Pursuant to AB 52, CEQA requires a lead agency, in consultation with traditionally and culturally affiliated tribes, to analyze project impacts to tribal cultural resources, which includes resources of tribal cultural value as well as scientific and archaeological value.<sup>51</sup> The lead agency has a duty to analyze impacts to tribal cultural resources early in the CEQA process.<sup>52</sup> AB 52 is intended to ensure that all stakeholders, including local and tribal governments, public agencies, and project proponents, will be informed about potentially impacted tribal cultural resources early in the development process and to identify and address potential adverse impacts to tribal cultural resources.<sup>53</sup> AB 52 explicitly recognizes that consultation between a lead agency and a tribal government is government-to-government consultation, and therefore can take place throughout the CEQA process and is not limited in time to any public commenting periods for the general public.<sup>54</sup> If the lead agency determines that a project may cause substantial adverse impacts to tribal cultural resources, the lead agency must consider measures to mitigate that impact.<sup>55</sup> The lead agency may finalize and certify an EIR only if tribal consultation has concluded, either through an agreement between the lead agency and the tribal government to measures that mitigate or avoid any significant effects on tribal cultural resources, or through the good faith conclusion by either the tribe or the lead agency that a mutual agreement cannot be reached.<sup>56</sup>

Furthermore, CEQA requires the analysis of cumulative impacts because, as courts have explained, “[o]ne of the most important environmental lessons evident from past experience is that environmental damage often occurs incrementally from a variety of small sources.”<sup>57</sup>

The DEIR analysis of Project impacts to tribal cultural resources is insufficient. The DEIR concludes in its analysis of Project impacts to aesthetic resources that “the Project vicinity exhibits a rural and agricultural character, and the development of the Project site with light industrial, business park, and commercial retail land uses would represent a substantial change to the existing visual character and quality of public views of the site and its surroundings. Impacts would therefore be significant.”<sup>58</sup> Yet, in direct conflict with this conclusion on aesthetic impacts, the DEIR concludes that the Project will not significantly adversely impact the viewshed of the tribes’ Traditional Cultural Landscape. It is unclear how the Project could

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<sup>51</sup> AB 52, § 1.

<sup>52</sup> *Id.* § 1, subd. (b)(7).

<sup>53</sup> *Id.* § 1.

<sup>54</sup> State of California Governor’s Office of Planning and Research, AB 52 and Tribal Cultural Resources in CEQA, Technical Advisory (June 2017), at 7 n.6.

<sup>55</sup> Pub. Resources Code, § 20184.3, subd. (b)(2).

<sup>56</sup> Pub. Resources Code, §§ 20180.3.3 & 20180.3.2(b).

<sup>57</sup> *Kings Cty. Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 720; CEQA Guidelines, Appendix G, §§ 15130, 15355.

<sup>58</sup> DEIR at 4.1-19.

adversely and unavoidably impact aesthetic resources in the manner described in the DEIR, but not adversely impact the tribal viewshed. At least one tribe voiced concerns to the County that the Project may impact the viewshed of the Tribal Cultural Landscape, and the DEIR itself acknowledges that the views to the San Jacinto River, the villages of Páyve and Páavo, and Mystic Lake would all be obstructed.<sup>59</sup>

CEQA requires the County to analyze whether the Project would cause a substantial adverse change in the significance of a tribal cultural resource.<sup>60</sup> The viewshed of an area is a component of landscape, in this case, a designated Tribal Cultural Landscape. The viewshed is therefore a protected tribal cultural resource that holds significance and continuity through tribal oral history; if the viewshed is obstructed or changed, the significance and meaning of a Tribal Cultural Landscape could be decimated. Substantial changes to this area's character and views, as the DEIR's own aesthetics analysis raises, could therefore significantly and adversely impact this tribal cultural resource.

The DEIR fails to include any technical analysis to evaluate impacts to the viewshed of the Tribal Cultural Landscape. In contrast, the DEIR's analysis of aesthetics impacts includes "field observations and site photographs, analysis of aerial photography," as well as information from the County GIS database.<sup>61</sup> Impacts to tribal cultural resources are entitled under CEQA to the same level and rigor of technical analysis as other environmental resources. Pursuant to AB 52, the DEIR, with input from tribes, should analyze the impacts to the viewshed by conducting additional field surveys and site and aerial photography with specific analysis of how the Project would impact the character and views of the Tribal Cultural Landscape. In particular, recognizing that tribes have special knowledge and expertise with regards to their tribal cultural resources, the analysis should incorporate testimonials from tribal elders and representatives.<sup>62</sup> Once more information and analysis are produced regarding impacts to the viewshed, the County, again with input from the tribes, should then consider all feasible mitigation to avoid adversely impacting the character and views of the landscape.

Furthermore, the DEIR, without substantiation, concludes that "future development is not anticipated to obstruct views of any scenic vistas or views."<sup>63</sup> The DEIR appears to be dismissing the need for a cumulative analysis of Project impacts to viewshed, without having sufficiently analyzed potential visual impacts from any other relevant anticipated developments. Pursuant to CEQA, the County must determine whether the Project's impacts are cumulatively considerable by considering relevant past, present, and future projects.<sup>64</sup> Here, the DEIR fails to identify any relevant projects. Notably, the Mid County Parkway is an anticipated development

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<sup>59</sup> *Id.* at 4.19-6.

<sup>60</sup> OPR Technical Advisory, *supra* note 54, at 10.

<sup>61</sup> DEIR at 4.1-1.

<sup>62</sup> *See* AB 52, § 1; OPR Technical Advisory, *supra* note 54, at 5-6 (listing types of evidence relevant to the significance of tribal cultural resources).

<sup>63</sup> DEIR at 4.19-6.

<sup>64</sup> CEQA Guidelines, § 15065, subd. (a)(3).

that, as the DEIR raises, would be in the Project's vicinity and provide crucial infrastructure and access to the Project.<sup>65</sup> Because of its size, the Mid County Parkway could significantly alter the character and views of the landscape adjacent to the Project and as such, also alter the same viewshed. As part of the Mid County Parkway environmental review and planning process, several tribes prepared reports on the visual resources associated with the Tribal Cultural Landscape at the Stoneridge Project site—and provided parts or all of those reports relevant to viewshed to the County during AB 52 consultation for the Project.<sup>66</sup> Despite those reports' availability to the County, the DEIR fails to incorporate information from those reports or identify the Parkway as a potential source of adverse cumulative impacts on viewshed. The DEIR should be revised to incorporate and analyze the information that tribes provided, and conduct a cumulative impacts analysis inclusive of impacts from the Mid County Parkway, among other relevant anticipated developments.

#### IV. THE DEIR DOES NOT INCORPORATE ALL FEASIBLE MITIGATION MEASURES.

CEQA prohibits agencies from approving projects with significant adverse environmental effects where there are feasible mitigation measures that would substantially lessen or avoid those effects.<sup>67</sup> “Where several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified.”<sup>68</sup> The lead agency is expected to develop mitigation in an open public process,<sup>69</sup> and mitigation measures must be fully enforceable and cannot be deferred to a future time.<sup>70</sup>

The DEIR finds significant and unavoidable impacts to air quality, noise, transportation, and agriculture and forestry. In addition, as discussed above, there are several additional significant impacts, including to air quality, noise, and tribal cultural resources, that are not sufficiently analyzed or disclosed in the DEIR. However, the DEIR fails to adopt all feasible measures to mitigate these significant impacts.

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<sup>65</sup> See *supra* note 3; DEIR at 4.18-1.

<sup>66</sup> See Mid County Parkway Final EIR/EIS and Final Section 4(f) Evaluation at 3.8-26 (March 2015), <https://rctc.org/midcountyparkway/uploads/eir3/Volume%20I%20-%20Chapters%201%20-%202%20and%20Chapters%204%20-%207/Volume%20I%20-%20Chapter%203/3.8%20Cultural%20Resources.pdf> (last accessed July 10, 2022) (confirming a Cultural Landscape Study in consultation with tribes and various government agencies for areas around the Mid County Parkway).

<sup>67</sup> Pub. Resources Code, § 21100, subd. (b)(3).

<sup>68</sup> CEQA Guidelines, § 15126.4, subd. (a)(1)(B).

<sup>69</sup> *Cmtys. for a Better Env't v. City of Richmond* (2010) 184 Cal.App.4th 70, 93.

<sup>70</sup> CEQA Guidelines, § 15126.4.

**A. The DEIR Fails to Adopt All Feasible Measures to Mitigate the Project's Significant Air Quality, Noise, and Transportation Impacts.**

The Project suffers from substantial design issues that contribute to its significant environmental impacts. As discussed above, the Project is sited far from established transportation corridors, meaning that trucks visiting the Project's warehouses must drive long distances and pass sensitive receptors to reach the nearest highways. Compounding this problem, the City of Perris's comment letter notifies the County that Ramona Expressway—a road the DEIR estimates will handle thousands of additional daily truck trips once the Project is operational—is not a truck route within Perris city limits. The DEIR must consider design changes to mitigate or remove these impacts. For example, the DEIR should evaluate alternative truck routes, including construction of a new route to Interstate 215 that would route trucks away from sensitive receptors, as described in section III.C, above. Furthermore, the DEIR concludes that the Project would have significant transportation impacts, adding nearly 24,000 vehicle trips a day to the area.<sup>71</sup> As a result, out of the 69 traffic intersections in the Project vicinity analyzed by the DEIR, 19 are expected to operate at a highly deficient or unacceptable "Level of Service" with regards to traffic flow (e.g., speed, travel time, delay, and freedom to maneuver) during AM and/or PM peak hours for 2030 traffic conditions, thus increasing vehicle emissions and hazards to residents.<sup>72</sup> The DEIR finds that because of the suburban nature of the Project site and surroundings, mitigation measures cannot reduce traffic impacts to a level of less than significant. The DEIR should incorporate mitigation measures recommended below to reduce adverse Project-related traffic impacts, even if these impacts cannot be reduced to a level of less than significant.

The DEIR states that the Project will follow Riverside County's Good Neighbor Policy for Logistics and Warehouse/Distribution Uses ("Good Neighbor Policy").<sup>73</sup> However, the Project's compliance with the Good Neighbor Policy is questionable. For example, MM 4.3-2 and MM 4.3-7 purport to require the Project to follow the Good Neighbor Policy's construction and operational requirements, respectively. But at least three of the Good Neighbor Policy's construction provisions are missing from MM 4.3-2's list of measures,<sup>74</sup> and a fourth measure is not implemented in full.<sup>75</sup> Similarly, MM 4.3-7 states "applicable feasible provisions" of the

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<sup>71</sup> DEIR at 3-28.

<sup>72</sup> *Id.* at 4.18-31.

<sup>73</sup> *See, e.g., id.* at 4.3-20, 4.3-27, 4.11-21 to -22, S-13 to -14 (MM 4.3-2), S-16 to -18 (MM 4.3-7), S-47 (CRDR 4.13-2).

<sup>74</sup> For example, Provisions 2.5, 2.8, and 2.10 of the Good Neighbor Policy do not appear in MM 4.3-2's list of measures or elsewhere in the DEIR. *Compare* Riverside County Board of Supervisors Policy F-3 at 3-4 *with* DEIR at S-13 to -14.

<sup>75</sup> Provision 2.2 of the Good Neighbor Policy requires large off-road, diesel-fueled construction equipment to be "equipped with CARB Tier 4 Compliant engines," providing an exception only if "the operator lacks Tier 4 equipment, and it is not available for lease or short-term rental within 50 miles of the project site." Riverside County Board of Supervisors Policy F-3 at 3.

Good Neighbor Policy “include, but are not limited to,” an enumerated list of provisions.<sup>76</sup> But it is unclear whether any Good Neighbor Policy provisions were omitted from the Project as “infeasible” and whether any provisions that are not in the enumerated list are also incorporated into the Project. The DEIR should list each item in the Good Neighbor Policy that MM 4.3-2, MM 4.3-7, CRDR 4.13-2, or any other binding measure incorporates so that the public can understand whether the Project in fact complies with the Good Neighbor Policy as the DEIR asserts.

Moreover, the Good Neighbor Policy alone does not comprise all feasible mitigation measures for this Project. The Attorney General’s Office published a document entitled “Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act” (Warehouse Best Practices Document) to help lead agencies identify all feasible mitigation for projects of this kind.<sup>77</sup> Nearly all of the example mitigation measures in the Warehouse Best Practices Document have been adopted in a warehouse project in California, demonstrating their feasibility. Yet, the DEIR does not incorporate several basic measures from the Warehouse Best Practices Document that would substantially reduce the Project’s impacts on adjacent residential communities. At minimum, the County should consider the following mitigation measures to reduce the adverse impacts of the Project to air quality, noise, and transportation:

- Requiring off-road construction equipment to be hybrid electric-diesel or zero-emission, where available, and all diesel-fueled off-road construction equipment to be equipped with CARB Tier IV-compliant engines or better, and including this requirement in applicable bid documents, purchase orders, and contracts, with successful contractors demonstrating the ability to supply the compliant construction equipment for use prior to any ground-disturbing and construction activities.
- Using electric-powered hand tools, forklifts, and pressure washers, and providing electrical hook ups to the power grid rather than use of diesel-fueled generators to supply their power.
- Designating an area in the construction site where electric-powered construction vehicles and equipment can charge.
- Forbidding idling of heavy equipment for more than three minutes.
- Using paints, architectural coatings, and industrial maintenance coatings that have volatile organic compound levels of less than 10 g/L.
- Providing information on transit and ridesharing programs and services to construction employees.
- Providing meal options onsite or shuttles between the facility and nearby meal destinations for construction employees.

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However, MM 4.3-2 only requires this equipment to have “CARB Tier 3 Certified engines or better.” DEIR at S-13.

<sup>76</sup> DEIR at S-16.

<sup>77</sup> <https://oag.ca.gov/system/files/media/warehouse-best-practices.pdf> (last accessed July 10, 2022).

- Increasing physical, structural, and/or vegetative buffers along projected truck routes to reduce pollutant dispersal and noise between trucks visiting the Project and adjacent sensitive receptors;
- Providing adequate areas for on-site parking, on-site queuing, and truck check-in that prevent trucks and other vehicles from parking or idling on public streets;
- Placing facility entry and exit points from the public street away from future residents of the McCanna Hills Specific Plan development;
- Constructing electric truck charging stations proportional to the number of dock doors at the project;
- Constructing electric light-duty vehicle charging stations proportional to the number of parking spaces at the project;
- Requiring all on-site motorized operational equipment, such as forklifts and yard trucks, to be zero-emission with the necessary charging or fueling stations provided.
- Requiring tenants to use zero-emission light- and medium-duty vehicles as part of business operations.
- Installing solar photovoltaic systems on the project site of a specified electrical generation capacity that is equal to or greater than the building's projected energy needs, including all electrical chargers.
- Requiring all stand-by emergency generators to be powered by a non-diesel fuel;
- Requiring facility operators to train managers and employees on efficient scheduling and load management to eliminate unnecessary queuing and idling of trucks;
- Meeting CalGreen Tier 2 green building standards, including all provisions related to designated parking for clean air vehicles, electric vehicle charging, and bicycle parking;
- Designing to LEED green building certification standards;
- Posting signs at every truck exit driveway providing directional information to the truck route;
- Requiring that every tenant train its staff in charge of keeping vehicle records in diesel technologies and compliance with CARB regulations, by attending CARB-approved courses. Also require facility operators to maintain records on-site demonstrating compliance and make records available for inspection by the local jurisdiction, air district, and state upon request;
- Requiring tenants to enroll in the United States Environmental Protection Agency's SmartWay program, and requiring tenants who own, operate, or hire trucking carriers with more than 100 trucks to use carriers that are SmartWay carriers.
- Restricting the turns trucks can make entering and exiting the facility to route trucks away from sensitive receptors.
- Paving roads on the truck routes with low noise asphalt.

All of these measures are feasible, and they would reduce the Project's significant air quality, noise, and transportation impacts. The County should include these common sense measures in the Project.

**B. The DEIR Fails to Adopt All Feasible Measures to Mitigate the Project's Significant Impacts to Agricultural Land.**

The DEIR finds that the Project would have significant and unavoidable direct and cumulative impacts to agricultural resources, due to the conversion of nearly 550 acres of farmland to non-agricultural use.<sup>78</sup> However, the DEIR contains no mitigation measures to reduce these impacts to a level of less than significant, citing *King and Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814 (“*KG Farms*”) for the proposition that agricultural conservation easements are not feasible mitigation measures.<sup>79</sup>

DEIR errs in its legal interpretation of *KG Farms*. *KG Farms* does not stand for the proposition that agricultural conservation easements are legally infeasible to mitigate the conversion of agricultural lands.<sup>80</sup> Rather, the case holds that, on a one-to-one ratio (e.g., conserving one acre of agricultural land under an easement for every one acre of agricultural land converted in the development), agricultural conservation easements are not alone sufficient to adequately mitigate a project's conversion of agricultural lands. In accordance with CEQA's requirement to adopt all feasible mitigation for significant impacts, a feasible measure that substantially lessens an impact, without avoiding the impact in whole, must nonetheless be included as mitigation prior to project approval.<sup>81</sup> Indeed, the holding in *KG Farms* indicates that to the extent that conservation easements are considered for mitigation, they could be applied at a greater than one-to-one ratio, or combined with other forms of mitigation (such as restoration into farmland of some land not currently used as such).

Because conservation easements are feasible and would lessen the effects of the Project's conversion of agricultural land to industrial uses, the County should include them as mitigation.

**C. The DEIR Should Mitigate the Project's Significant Impacts to Tribal Cultural Resources.**

As the County has been informed through consultation with the tribes, the Project site is on and adjacent to a landscape that holds tangible and intangible connections for the tribes. Not only does this landscape contain known and unknown archaeological resources and biological resources important to the tribes' history and traditional practices, the landscape also holds cultural significance through oral history that connects descendants of the tribes to that landscape.<sup>82</sup> The Project site overlaps with the tribes' traditional trails and traditional harvesting

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<sup>78</sup> DEIR at 4.2-4 Figure 4.2-1; 4.2-12 to -13.

<sup>79</sup> *Id.* at 4.2-13 to -15.

<sup>80</sup> A recent decision in a case related to *KG Farms* rejected this exact reasoning in the DEIR and concluded that the Court of Appeals in *KG Farms* did not preclude as a matter of law the use of conservation easements as mitigation. (See *Vaquero Energy v. County of Kern* (Super. Ct. Kern County, 2022, No. BCV-15-101645) at 9.)

<sup>81</sup> Pub. Resources Code, § 21100, subd. (b)(3).

<sup>82</sup> DEIR at 4.19-5 to -6.

and gathering areas. The Project would impact that connection by preventing access by the tribes to areas that would become warehouses or other structures. Although the DEIR allows access for the tribes to continue gathering and visiting within the Project site's designated 20-acre "Preservation Area,"<sup>83</sup> this area is limited to only a small portion of the nearly 600-acre Project site, and overlaps with only a small portion of the Tribal Cultural Landscape and other surrounding areas of historical and cultural significance that was once accessible to the tribes. The DEIR should therefore include additional areas in which the tribes have access for educational, cultural, and ceremonial practices, as well as for the harvesting and gathering of native plant species, so that traditional practices and connections to the land may be maintained.

Furthermore, because construction of the Project includes ground disturbing activities that could harm known and currently unknown tribal cultural resources potentially significant to the tribes, culturally appropriate mitigation is necessary. For instance, if it is determined that reburial or relocation of tribal cultural resources is necessary, then the relocation and/or reburial should be conducted in a culturally appropriate manner. Culturally appropriate preservation of these tribal cultural resources may require reburial or relocation close to their original site(s), within the same viewshed and geological conditions that keep the resources within their historical context so as to maintain the tribes' traditions and connections to these resources, and to preserve their indigenous footprint. Currently, the DEIR mitigates the impacts to both currently known tribal cultural resources and potentially inadvertently discovered resources by providing for their relocations and reburials in an open space area of approximately 20 acres.<sup>84</sup> However, because this open space is constrained to one small portion of the Project site, it may not have the requisite topological and geological diversity to allow resources relocated from a vast geographic area to maintain their contextual integrity or be treated in a culturally appropriate manner. Thus, more than one open space area should be made available to provide more options for tribal cultural resources to be reburied close to their original contexts or relocated in a culturally appropriate place and manner, or for other culturally appropriate mitigation measures to be considered. The County should consult with tribes to determine additional areas for the preservation of these resources and work with the tribes on measures to ensure their security.

## V. CONCLUSION

CEQA promotes public health and thoughtful governance by requiring evaluation, public disclosure, and mitigation of a project's significant adverse environmental impacts before project approval. When implemented well, CEQA builds public trust and encourages sustainable development that will serve the local community for years to come. We urge the County to revise the DEIR to fully analyze and disclose all significant impacts and adopt all feasible mitigation and recirculate the revised DEIR for further public review and comment. Furthermore, pursuant to the County's obligations under AB 52, we urge the County to continue consultation with the tribes up until the Final EIR for the Project is certified, in case any pre-certification changes to the Project cause further significant impacts to tribal cultural resources that would require measures to mitigate or avoid the impacts. We are available to provide

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<sup>83</sup> *Id.* at 4.5-36.

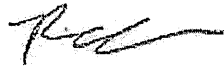
<sup>84</sup> *Ibid.*; *id.* at 2-8.



July 11, 2022  
Page 19

assistance to the County as it works to comply with CEQA. Please do not hesitate to contact us if you have any questions or would like to discuss.

Sincerely,

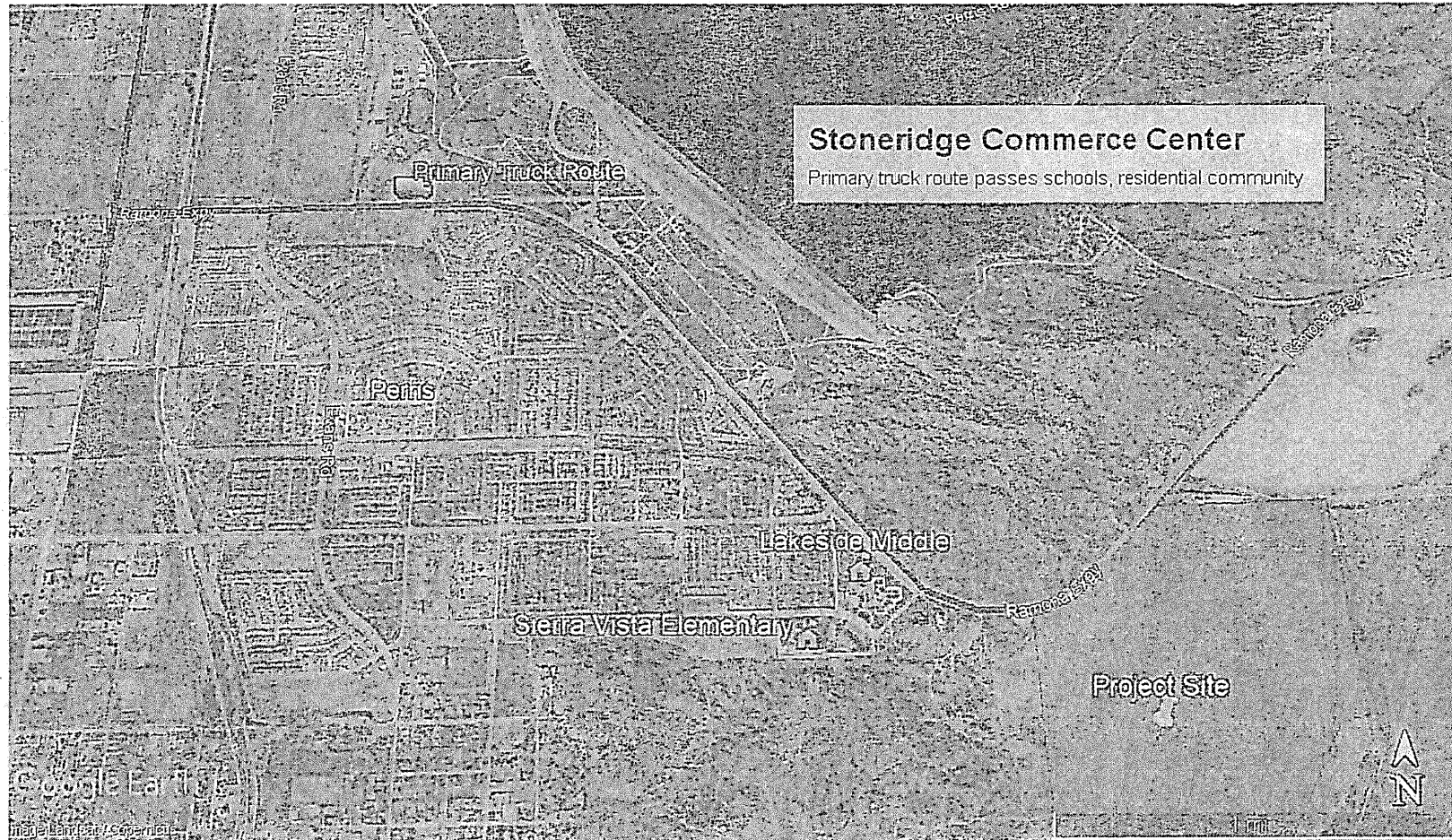


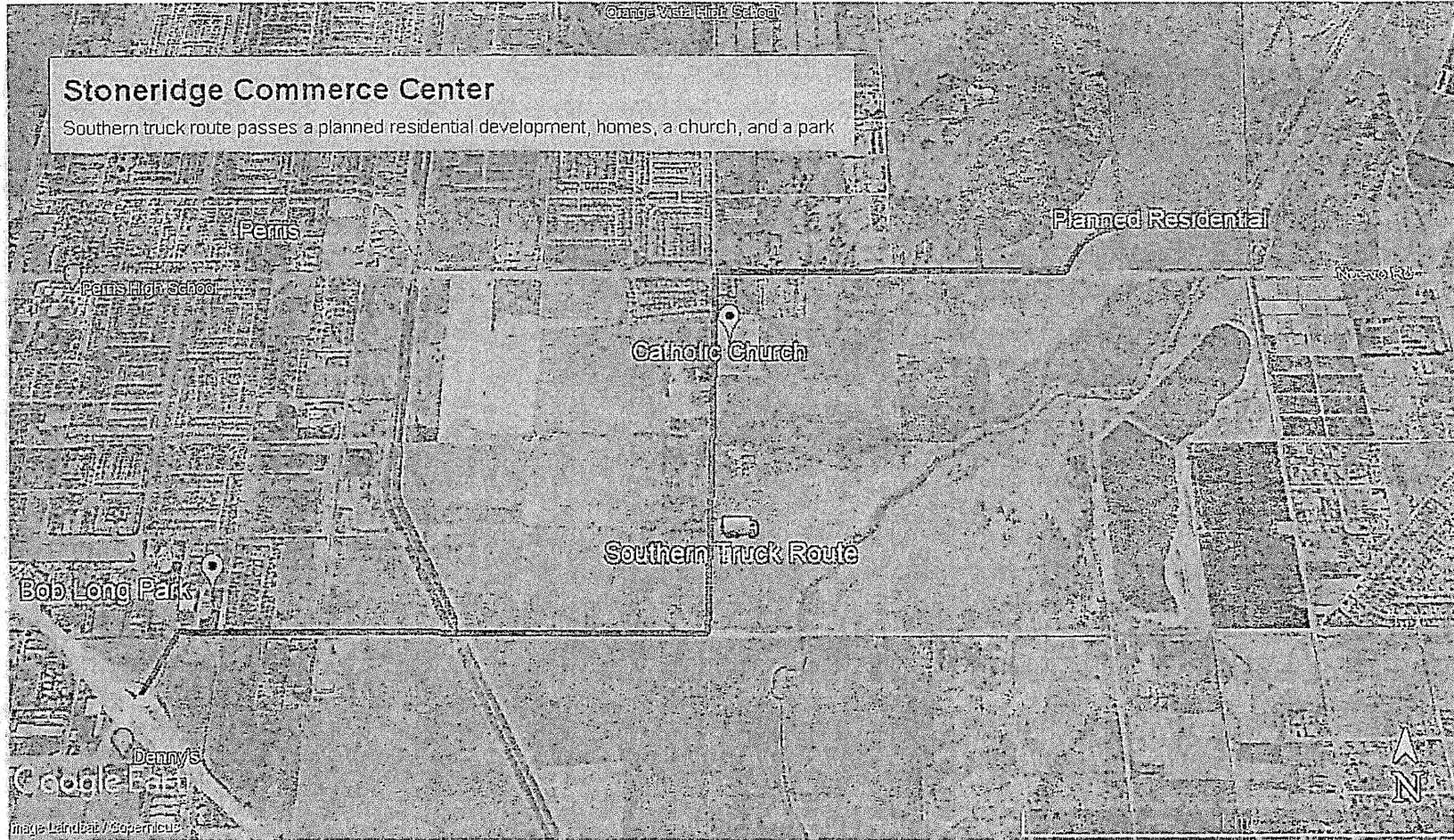
ROBERT SWANSON  
Deputy Attorney General

YUTING CHI  
Deputy Attorney General

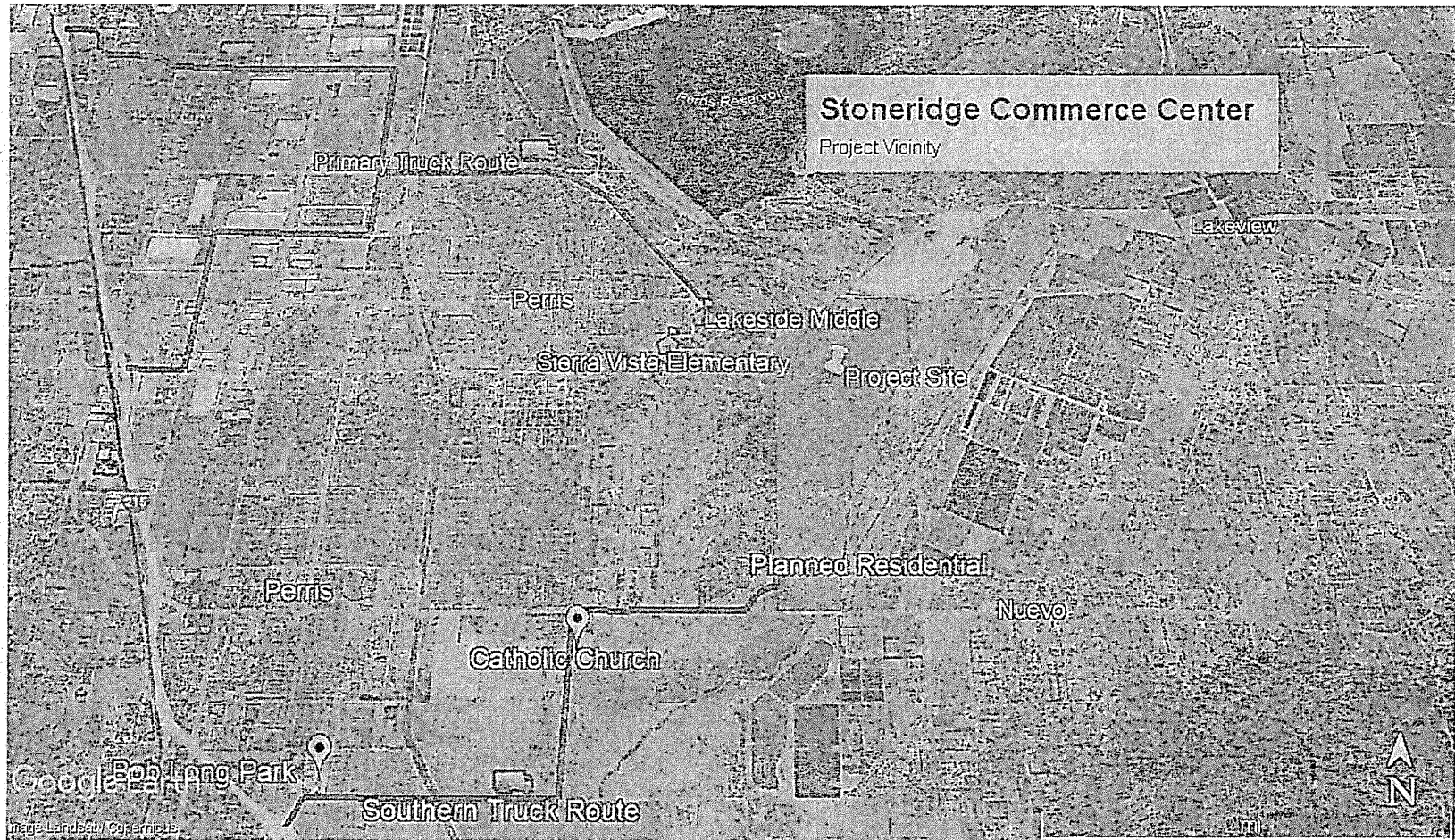
For ROB BONTA  
Attorney General

**Exhibit A: Annotated Maps of the Primary and Southern Truck Routes**

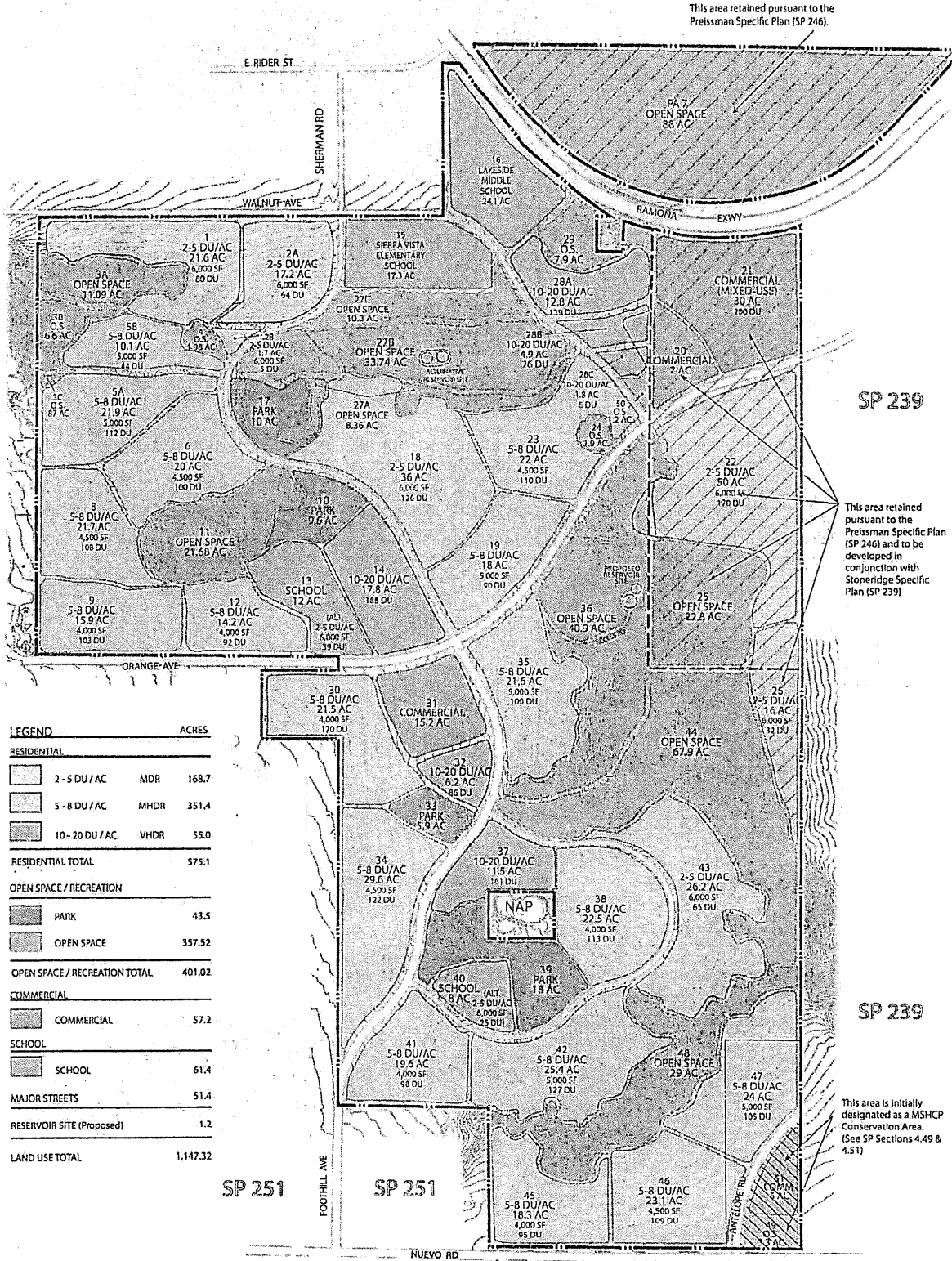




**Exhibit B: Annotated Map of the Project Vicinity**



# Exhibit C: McCanna Hills Specific Plan Map



LEGEND	ACRES
<b>RESIDENTIAL</b>	
2-5 DU/AC	MDR 168.7
5-8 DU/AC	MHDR 351.4
10-20 DU/AC	VHDR 55.0
<b>RESIDENTIAL TOTAL</b>	
	575.1
<b>OPEN SPACE / RECREATION</b>	
PARK	43.5
OPEN SPACE	357.52
<b>OPEN SPACE / RECREATION TOTAL</b>	
	401.02
<b>COMMERCIAL</b>	
COMMERCIAL	57.2
<b>SCHOOL</b>	
SCHOOL	61.4
<b>MAJOR STREETS</b>	
	51.4
<b>RESERVOIR SITE (Proposed)</b>	
	1.2
<b>LAND USE TOTAL</b>	
	1,147.32

NOTE: Planning areas are approximated. Acres noted include possible slopes, open space, roadways and trails between areas as well as development area.

# EXHIBIT N

BULLETIN  
OF THE  
PUBLIC MUSEUM OF THE CITY OF MILWAUKEE

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Vol. 20, Part I, Pp. 1-260, Plates 1-30, Text Figs. 1-4

March, 1952

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Material Aspects of Pomo Culture

Part One

By  
S. A. Barrett

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MILWAUKEE, WIS., U.S.A.  
Published by Order of the Board of Trustees

23. Fig. 1. Arrow straightener.  
Fig. 2. Sling.  
Fig. 3. Fan.  
Fig. 4. Bull-roarer.  
Figs. 5-7. Acorn string and tops.
24. Fig. 1. Using arrow straightener.  
Fig. 2. Gathering angleworms.
25. Methods of stringing a bow.
26. War costumes, with rod armor.
27. Mats and pads of tule.
28. Tule balsa.
29. Leggings and moccasins of tule.
30. Fig. 1. Skirt of shredded tule.  
Fig. 2. Tule storage container for ceremonial outfit.

#### TEXT FIGURES

- Figure 1. Double-arch snare.
2. Treddle snare.
  3. Baited snare.
  4. Fence in the tule, with waterfowl snare and basketry trap.

#### INTRODUCTION

Under the caption "Territory and Environment" in "Pomo Myths" (Barrett, 1933) there appears a concise, yet quite adequate statement outlining the territory formerly occupied by the Pomo Indians just north of San Francisco Bay and of the three characteristic environmental units of this territory: the coastal, the valley or river, and the lake regions. A fuller treatment of this subject will be found in Kroeber, 1925, Chapter 15, pp. 222-239. Also more details will be found in Barrett, 1908A; 10-27. A special discussion of the history of this territory from the earliest Spanish contact to recent times is found on pages 27-50 of this same paper. This whole territory was ideal "Indian country" and what is said in the above paper concerning the development of cultural variants which were reflected in mythology is even more strongly evident when we come to study the material culture of the tribe.

The studies upon which the present paper is based were, in a large measure, made concurrently with those on Pomo geography, basketry, mythology, and several other special subjects. Prior to that, however, the author lived for much of his early life in the town of Ukiah, in the heart of the Pomo country and, being naturally interested in the Indians, he acquired from association with these interesting people a considerable knowledge of their culture before he began to study them intensively. This earlier contact began in 1894.

When, in 1903, an opportunity presented itself, through the kindly interest of A. L. Kroeber, of the then newly formed Department of Anthropology of the University of California, to take up systematically the study of the Pomo, the previous decade of residence among these people and the author's acquaintance with very many of them proved of great value. From 1903 to 1907 these studies were, as opportunities permitted, carried on for the University of California,<sup>2</sup> through the generosity of Mrs. Phoebe Apperson Hearst. Several papers resulting from these studies have already appeared (See Bibliography).

<sup>2</sup>Considerable collections were made, including botanical specimens which were at that time identified by the Department of Botany, University of California. These same identifications are being used in the present paper, notwithstanding the fact that some changes in terminology and classification have been made in the intervening years. However, without a complete reexamination of these early collections, it would be unsafe arbitrarily to change the names of the plants, as assigned by the botanists at the time, in accordance with more recent terminology.



In 1914 and 1915 further work was done in this same territory, this time for the Milwaukee Public Museum. The emphasis upon this occasion was on material culture. In addition to a rather complete collection of museum specimens, this work resulted in data and specimens which enabled the Museum to build one life-size and several miniature groups which are now on display in the hall of American Ethnology. Two of these are illustrated in plates 1 and 31.

More recently it has been possible to study and to again review rather carefully the collections made by the author, first for the University of California and later for the Milwaukee Public Museum. A comparative study has also been made of the Pomo material in the museums of the country, and illustrations and additional data are here assembled from most of these; notably the Museum of the American Indian, Heye Foundation; the American Museum of Natural History; the Brooklyn Museum; the United States National Museum; the Carnegie Museum; the Chicago Natural History Museum; and the Oakland Public Museum. To all of these institutions and to the Museum of Anthropology of the University of California we are deeply indebted for most hearty cooperation and assistance, and for special permission to reproduce in our plates illustrations of Pomo specimens in their collections, and photographs from their files.

It is upon the combined results of all this work, dating from 1894 to the present, that the data here assembled and the conclusions here given are primarily based. However, not a little of the credit for these results is attributable to the following fact which, in these times when most of the older Indians are gone, is a most extraordinary circumstance.

Upon several occasions, back in the first years of this century, the author worked with Mr. Tom Johnson, a very well informed and mentally alert member of the Southeastern dialectic group. Again, in 1914 and 1915, considerable time was spent with him at his old home at the lower end of Clear Lake, and much valuable information was secured. Now, in 1948 and 1949, when working over these early field notes, it was found that some points needed clarification and verification. On the very slim chance that Mr. Johnson might still be alive, an inquiry was sent to his old address at Lower Lake. To my great surprise a reply came which showed that he then resided with his daughter, Mrs. Helen

Williams, in Santa Rosa, only forty miles from my present home. At the age of about ninety, he was the oldest living member of his dialectic group. In fact there are not over a dozen of all ages left. As of old, he was meticulously accurate. Despite his advanced age, his memory was still good, but if he did not know the answer to a question, or if he did not recall a native term, he did not resort to guessing. Throughout, he was actuated by a genuine desire to leave an accurate record of his people, whose actual obliteration is now so imminent. The obliteration of their material culture through the process of acculturation<sup>3</sup> has long been so nearly complete that most native features are now only memories, and these, among the younger people, all too faint at that. His information can be relied upon as showing things as they were in his part of the lake area when he was a boy or a young man, or as he heard of them from his elders in those days. Concerning ancient conditions in the coast and valley areas he did not claim any special knowledge.

Since most of the work on material culture which has been done by others among the Pomo has emphasized data secured from informants of the coast and valley areas, and from informants who came from the northern part of the lake area, this information, which reflects conditions in the southern part of the lake region (Lower Lake, East Lake, and adjacent lands), should be of particular interest, as there existed here various specialized features of culture based upon this lake environment, notably water fowl, fish, and tule.

Finding Tom at this juncture presented such a rare opportunity to check over the notes taken earlier, and also to secure additional information, that a considerable number of days were spent with him rechecking all data so far as these pertained to the lake area.

One of the few other surviving members of this dialectic group is Tom's brother, Ned, aged about eighty-five, who still resides near Lower Lake. Ned was, when younger, a bead maker, and still is noted locally as a very successful hunter.

<sup>3</sup>Acculturation among the Pomo has been very adequately covered in the work of the Social Science Field Laboratory, New York University, under the directorship of Burt W. Aginsky and the associate directorship of Ethel G. Aginsky. They and their associates, from 1934 to the present, have made very intensive studies of the Pomo from their first contacts with the whites, through the Spanish, Russian, early American contacts, and down to the most recent times.

Many of the interesting results of these researches have already appeared (See Aginsky, also Henderson, in our bibliography).

Not infrequently Mrs. Williams was able to supply needed information. Her statements are given added force by the fact that much of her girlhood was spent with her grandmother, from whom she learned a great deal about old customs, and by whom she was taught the ancient crafts and skills which belonged especially to the sphere of women.

It is with the deepest regret that I must record that Tom passed away on March 12, 1949, and before we had quite finished our final checking of certain subjects. Mrs. Williams has done her best to supply the information to fill these gaps.

Attention should be called to the fact that certain phases of material culture are not included here for the reason that these have been treated in detail in previous publications. Particularly is this true of basketry, houses, and some other subjects (See Bibliography).

On the other hand there are several topics which do not fall within the strict limits of material culture but upon which information is available. This information was collected at such an early date and from older members of the tribe, men and women (most of whom are now dead) who knew ancient customs far better than the present generation, that it seems advisable to record all such data at this time. Such topics will be placed in appendices in order to keep them clearly separated from strictly material-culture subjects.

### INFORMANTS

In addition to the informants specifically mentioned above, a considerable number of others were consulted during the years covered by these investigations. Some were specially versed in one phase of Pomo life, some in another, but all contributed more or less to the subject of Material Culture.

Most of them were, at the turn of the century, either of middle age or older. Some were in very advanced years. Exact dates of birth were, of course, not recalled by any of them, for the Pomo anciently had no means of keeping track of these, but note was made at the time of their apparent ages. From these estimates it is possible to give an approximate year of birth for each. In a number of instances the date of birth may be gauged with fair accuracy from some well known event, such

as the Bloody Island Massacre of 1850, or the meteoric shower of 1833. For instance, a few of the oldest informants would say, "I was big as that boy there (indicating some child near by) when stars fall down." If the child was about twelve years of age, it was safe to assume a birth date of c. 1820 for the old man. All of these older informants, and most of the younger ones, are no longer living.

The following list gives what is known of each of those from whom substantial amounts of information of any kind were obtained. Minor informants are not included. Where known, the antecedents and connections of each are noted, and also any points of interest concerning the experiences of each, such as early slavery. As has been elsewhere pointed out (Barrett, 1908A; 45), the Indians of this region were, during the days of the Mexican settlement and during the early days of the American settlement, subjected to raids for the purpose of securing workers, especially for the ranches to the south. As nearly as may be determined, the last of these raids occurred between 1860 and 1865. Many of the older informants and others still living in the first years of the present century recalled all too vividly their own days of servitude.

### NORTHERN DIALECT

- Dick Johnson. Little River, Mendoc. Co.  
B. at Little Lake, c. 1825. Removed to Sherwood Valley and in 1901 returned to Little Lake.
- Kaltat. Anderson Valley, Mendoc. Co.  
B. at Anderson Valley, c. 1860.
- Charley Brown. Guidiville, Mendoc. Co.  
B. at Calpella, c. 1850.
- Captain Bill. Guidiville, Mendoc. Co.  
B. at Cokaijal, c. 1830. Was stolen when a child and remained about fifteen years in slavery among the rancheros to the south.
- Captain Jack. Pinoleville, Mendoc. Co.  
B. c. 1835.
- John Lake. Potter Valley, Mendoc. Co.  
B. c. 1850.
- Bob Pot. Garcia River, Mendoc. Co. and Scott's Valley, Lake Co.  
B. at Scott's Valley, c. 1850. Mother, Scott's Valley. Father, Yokaia. Lived almost always at Scott's Valley.
- Jose Richardson. Pinoleville, Mendoc. Co.  
B. at Redwood Valley, c. 1835. Stolen when a child and sold to an "Englishman" living somewhere around San Francisco Bay. Remained there some years.
- George Dashields. Potter Valley, Mendoc. Co.  
B. at Sedam in Potter Valley, c. 1850.
- Jack Bush. Potter Valley, Mendoc. Co.  
B. at Potter Valley, c. 1860.
- George Stewart. Fort Bragg, Mendoc. Co.  
B. c. 1860. Parents both from Sherwood Valley.
- Will Duncan. Coyote Valley, Mendoc. Co.  
B. at Round Valley, c. 1865. Father, Redwood Valley. Mother, Potter Valley.